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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

ADRIAN RISKIN,

Petitioner,

vs.

HISTORIC CORE BUSINESS
IMPROVEMENT DISTRICT PROPERTY
OWNERS ASSOCIATION,

Respondent.

Case No. BS174718

PETITIONER'S BRIEF IN SUPPORT OF
PETITION FOR ORDER COMPELLING
DISCLOSURE PURSUANT TO PUBLIC
RECORDS REQUEST; DECLARATIONS
OF COLLEEN FLYNN & ADRIAN RISKIN

Date: September 3, 2019
Time: 1:30 p.m.
Dept: 85

TO THE HON. JAMES C. CHALFANT, JUDGE OF THE SUPERIOR COURT:

Petitioner Adrian Riskin hereby submits his brief in support of an order compelling
Respondent Historic Core Business Improvement District Property Owners Association to
disclose public records sought in the Petition filed August 13, 2018.

Dated: July 8, 2019

LAW OFFICE OF COLLEEN FLYNN
Attorneys for Petitioner

By 
Colleen Flynn

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 **A. Case Background and Relief Requested**

4 This California Public Records Act lawsuit arises from records requests by Adrian Riskin
5 (“Petitioner”) to the Historic Core Business Improvement District Property Owners Association
6 (“Respondent”) seeking emails Respondent exchanged with the City of Los Angeles, its
7 Business Improvement District (“BID”) renewal consultant, other Downtown BIDs, developers
8 and businesses, as well as StreetPlus, a company that provides security and related services.
9 Respondent sent and received these emails to conduct its business and further its interests.

10 Respondent belatedly produced some of the requested records. However, due to its
11 dilatory conduct as well as institutional incompetence, it has failed to produce all responsive,
12 non-exempt records. Petitioner filed his Cal. Gov’t Code §6259, subd. (a)¹ Petition on August
13 13, 2018. (“8/13/18 Petition”). As to records not produced, Petitioner now seeks the Court’s
14 order directing 1) disclosure of unredacted, native format records Respondent previously
15 produced redacted, in hard copy in response to his January 24, 2017 request and 2) a new,
16 supervised, search conducted for the other four CPRA requests at issue in the litigation.

17 The Petition also sought an order regarding the timeframe for Respondent’s records
18 production in response to Petitioner’s future CPRA requests. The parties have reached an
19 agreement and a Joint Stipulation Regarding Timetable for Respondent’s Future Responses to
20 Petitioner’s CPRA Requests is filed concurrently herewith. (See Petitioner’s Second Cause of
21 Action; Cal. Const. Art. I §3 subd. (b)(2)).

22 **B. Petitioner’s California Public Records Act Requests**

23 **1. 1/24/17 Request**

24 On January 24, 2017, Petitioner sent a CPRA request to Respondent’s Executive
25 Director, Ms. Blair Besten, seeking:
26
27

28 ¹ All subsequent statutory references in this memorandum are to the California
Government Code, unless otherwise noted.

1 “All emails between you and anyone at lacity.org or any of its subdomains from between
2 January 1, 2016 and today. I would like to take a look at these emails in their native electronic
3 formats as well as all attachments to them, also in their native electronic format.” (**Exhibit A** to
4 8/13/18 Petition).

5 *First Response:* On May 19, 2017, Respondent, through Ms. Besten, produced
6 approximately 250 pages of printed emails, and a thumb drive containing electronic versions of
7 another 1,743 of emails.

8 *Problem #1:* The printouts of emails (but not the emails on the thumb drive) had
9 redactions of email addresses and phone numbers.

10 *Problem #2:* The redactions were not well taken as the electronic files contained
11 the same email addresses and phone numbers unredacted and they were all
12 business contacts, not private contact information.

13 *Problem #3:* The request sought *electronic* versions of all emails; Respondent had
14 failed to provide the electronic versions of the 250 pages of email.

15 *Second Response:* On December 31, 2018, Respondent, through counsel, provided
16 approximately 738 unique emails in their original electronic form (actual number provided was
17 1,418 but nearly one-half were duplicate files).

18 *Problem #1:* Only some, not all, were electronic versions of emails produced in
19 May 2017. It appears that many of the 250 pages of printed emails produced in May 2017
20 still have not been produced in their electronic version.

21 *Problem #2:* May of the emails were *not* responsive to the 1/24/17 request, thus
22 making it unreasonably difficulty to determine if, in fact, Respondent had provided
23 responsive records (a problem made worse by the duplicate files). That is, it seems
24 Respondent deliberately made a “document dump” so as to conceal it was not providing a
25 full and complete response.

26 *Current status:* Respondent still has not produced electronic versions of *all* emails
27 produced in May 2017.

1 **2. 2/22/17 Requests**

2 On February 22, 2017, Petitioner submitted two CPRA requests to Respondent. The first
3 February 22, 2017 request (“City Emails”) asked Ms. Besten for:

4 All emails between anyone at the HCBID, staff or board, and anyone at the City of Los
5 Angeles including LAPD from between January 25, 2017 and February 22, 2017. I would like to
6 take a look at these emails in their native electronic formats as well as all attachments to them,
7 also in their native electronic formats. (**Exhibit E** to 8/13/18 Petition).

8 Petitioner’s second February 22, 2017 request (“StreetPlus Emails”) to Ms. Besten stated:

9 I’d like to take a look at all emails between anyone at the HCBID, staff or board, and
10 anyone at StreetPlus from January 1, 2016 through January 31, 2017. I would like to take a look
11 at these emails in their native electronic formats as well as all attachments to them, also in their
12 native electronic formats. (**Exhibit F** to 8/13/18 Petition).

13 *First Response:* In June 2017, Ms. Besten informed Mr. Riskin that the responses to these
14 requests were complete. He made two appointments – one for July 2017 and one for August
15 2017 – to inspect the records but Ms. Besten cancelled both appointments. She then said she
16 would mail them to him but she never did.

17 *Second Response:* As of October 10, 2017 attorney Jeff Briggs has been handling records
18 requests for Respondent. After the filing of this lawsuit, he produced a few emails responsive to
19 this request on December 31, 2018, between Ms. Besten and Abraham Lopez, an employee of
20 StreetPlus. Mr. Briggs has produced some records responsive to these requests, however, the
21 responses are incomplete and reflect an inadequate search.

22 **3. 6/26/17 Request**

23 On June 26, 2017, Petitioner sent a CPRA request to Ms. Besten seeking:

24 (1) All emails between (to/from/cc/bcc) anyone at the HCBID and any of the following
25 people, email addresses, and/or domains... from January 1, 2016 through whenever you comply
26 with this request:[list of 27 email addresses and domains of Downtown BIDs, developers and
27 businesses]; (2) All emails between anyone on the staff of HCBID and anyone at the City of Los
28 Angeles including LAPD from February 23, 2017 through whenever you comply with this

request...; (3) Any emails with the word “delijani” in them if not already included in the previous categories... from January 1, 2016 to whenever you comply with this request; (4) the BID’s contract with your renewal consultant and any communications between anyone (staff and/or board) at the BID and anyone at the renewal consultant.” He asked for all emails in EML format with attachments in their native formats. (**Exhibit K** to 8/13/18 Petition).

First Response: Ms. Besten informed Petitioner that documents responsive to this request would be ready to review at the August appointment, but she cancelled it. She then said she would mail the records to Petitioner but she never did.

Second Response: As of October 10, 2017 attorney Jeff Briggs has been handling records requests for Respondent. Mr. Briggs has produced some records responsive to these requests, however, the responses are incomplete and reflect an inadequate search.

4. 10/26/17 Request

On October 26, 2017, Petitioner emailed Mr. Briggs requesting the following records from Respondent: “all records in possession of the HCBID involving the Historic Downtown Farmer’s Market (“FM”) as follows: (a) contracts, MOUs, [etc], (b) all emails between anyone on the staff of the BID and anyone at SFMA from January 1, 2015 through whenever you run the search... (c) all intra-staff emails and emails between staff and board of directors that mention or are to/from/cc/bcc Ian.. the manager of the FM.” Petitioner made this CPRA request to follow-up on a complaint of racial bias against a vendor at the Farmers Market. (**Exhibit MM** to 8/13/18 Petition).

First Response: As of October 10, 2017 attorney Jeff Briggs has been handling records requests for Respondent. Mr. Briggs has produced some records responsive to these requests, however, the responses are incomplete and reflect an inadequate search.

Respondent has failed to adequately respond to any of these requests and produce all non-exempt responsive records. See 8/13/18 Petition, ¶ 5-62.

II. LEGAL STANDARD

The Public Records Act... was enacted in 1968 and provides that ‘every person has a right to inspect any public record, except as hereafter provided.’ (§6253, subd. (a).) We have explained that the act was adopted ‘for the explicit purpose of “increasing freedom of information” by giving the public “access to information in possession of public

1 agencies.” (CBS, Inc. v. Block (1986) 42 Cal.3d 646, 651. [] As the Legislature
2 declared in enacting the measure, ‘the Legislature... finds and declares that access to
3 information concerning the conduct of the people’s business is a fundamental and
4 necessary right of every person in this state.’ (§6250.)” (Roberts v. City of Palmdale
5 (1993) 5 Cal. 4th 363, 370).

6 City of Los Angeles v. Superior Court (Axelrad) (1996) 41 Cal. App. 4th 1083, 1086.

7 Under the CPRA, if a record is a public record then it must be disclosed. §6253, subd.
8 (a), 6256. The agency is required to respond to the request within ten days. §6253, subd. (c). If
9 the agency objects to disclosure, the agency carries the burden of proof to show that the
10 requested records are exempt from disclosure. §6255. If the agency fails to carry that burden, the
11 requested records must be disclosed. New York Times v. Superior Court (1990) 218 Cal. App. 3d
12 1579, 1586-87 (Court of Appeal reversed trial court because that court failed “to place the
13 burden on the agency to justify withholding the information sought” under the CPRA); Braun v.
14 City of Taft (1984) 154 Cal. App. 3d 332, 345 (“The burden of demonstrating a need for
15 nondisclosure is upon the agency claiming the right to withhold the information.”).

16 Not only the CPRA itself requires that exemptions to disclosure be narrowly construed so
17 as to favor disclosure, e.g., Citizens for a Better Environment v. Dept. of Food & Agriculture
18 (1985) 171 Cal. App. 3d 704, 711, but the California constitution also “direct[s] the courts to
19 broadly construe statutes that grant public access to government information and to narrowly
20 construe statutes that limit such access.” Long Beach Police Officers Ass’n v. City of Long Beach
21 (2014) 59 Cal. 4th 59, 68 (citing Cal. Const., Art. I § 3 subd. (b)(2)).

22 The public interest in transparency and “ensuring accountability is particularly strong
23 where the discretion invested in a government official is unfettered” and where “the degree of
24 subjectivity involved in exercising the discretion cries out for public scrutiny.” CBS, 42 Cal. 3d
25 at 655.

26 Respondent has a heavy burden for justifying its refusal to produce the records Petitioner
27 seeks.

28 //

//

1 **III. ARGUMENT**

2 **A. Respondent is Subject to the California Public Records Act**

3 Respondent Historic Core Business Improvement District Property Owners Association
4 is a property owners association created by the City of Los Angeles in 1998, pursuant to the
5 Property and Business Improvement District law of 1994, Cal. Streets and Highways Code
6 §36600 *et seq.*, to manage the Historic Core Business Improvement District. Respondent is an
7 association subject to the California Public Records Act. Cal. Streets and Highways Code
8 §36612.

9 **B. Requested Items Are Public Records Which Must be Disclosed**

10 Emails, the records Petitioner seeks, fall within the definition of public records. *City of*
11 *San Jose v. Superior Court* (2017) 2 Cal. 5th 608, 617 (“It is undisputed that the items at issue
12 here [emails] constitute writings.”); §6252, subd. (e) (public records include “any writing
13 containing information” “regardless of physical form or characteristics.” *See also* §6254.9, subd.
14 (d) (“Public records stored in a computer shall be disclosed as required by this chapter.”)
15 Furthermore, they are in Respondent’s possession. As Petitioner has met its burden of proof, the
16 burden shifts to Respondent to demonstrate the records are exempt. Respondent cannot meet its
17 burden.

18 **C. Public Interest in Disclosure**

19 In an effort to monitor the workings of Respondent and other BIDs, and disseminate his
20 findings on his website, Petitioner has utilized the CPRA. The materials on Petitioner’s website
21 are available for free to the public. He has been quoted in the *Los Angeles Times* and his website
22 linked to in various articles. Just last week documents he obtained through the CPRA were
23 referenced in two *Los Angeles Times* articles regarding charter schools and the articles linked
24 directly to his website.² Petitioner has also been contacted by documentary film makers, public

25 ² Howard Blume, “L.A. charter school plans: Take back mayor’s office, sue district, battle
26 teachers union,” *Los Angeles Times*, July 2, 2019, <https://www.latimes.com/local/lanow/la-me-edu-secret-plan-for-charters-20190702-story.html#nt=oufit> [last visited 7/7/19]

27 Howard Blume, “Memo to charter leaders: ‘It’s better to be feared than loved. Right now we are
28 neither.’” *Los Angeles Times*, July 2, 2019, <https://www.latimes.com/local/lanow/la-me-edu-charter-leaders-confidential-planning-20190702-story.html#nt=oufit> [last visited 7/7/19] (“*The email was originally disclosed through a public records request submitted to a charter school group by*

1 interest attorneys, and students from Boalt Hall’s Policy Advocacy Clinic who have utilized
2 information on his website for their projects. Riskin Decl. to Petitioner’s Brief in Support of
3 Petition for Order Compelling Disclosure (“Riskin Dec.”), ¶ 1-5.

4 **1. Los Angeles Municipal Lobbying Ordinance**

5 BIDs such as Respondent use publicly-disbursed money to collaborate and wield political
6 influence with the City. Riskin Dec. ¶ 7. Respondent lobbies City officials on matters such as
7 “DTLA 2040” and other planning and development projects. Riskin Dec. ¶ 7. Petitioner, through
8 the five CPRA requests at issue in this petition, seeks to understand and report on the ways in
9 which Respondent’s staff and board of directors influence City officials with respect to pending
10 legislation and other City matters. Riskin Dec. ¶ 7-9. Petitioner also seeks to understand and
11 report on the means by which Ms. Besten, Respondent’s Executive Director, collaborates with the
12 staff of other Downtown BIDs to present a unified set of concerns to City staff with whom they
13 interact and lobby. Riskin Dec. ¶ 7.

14 At the time petitioner requested communications between Respondent and its consultant,
15 in June 2017, the BID was undergoing its renewal process, pursuant to the Property and Business
16 Improvement District Law of 1994, which involved advocating for the passage of two key
17 ordinances. Riskin Dec. ¶ 8. At that time, Petitioner was seeking to understand the means
18 employed by Respondent and its consultant to lobby and influence the City with respect to this
19 municipal legislation. Riskin Dec. ¶ 9.

20 The Municipal Lobbying Ordinance, LAMC §48.01 *et seq.*, explicitly states the weighty
21 public interest in understanding such matters: "The citizens of the City of Los Angeles have a
22 right to know the identity of interests which attempt to influence decisions of City government,
23 as well as the means employed by those interests." LAMC §48.01, subd. (B)(2). "Complete
24 public disclosure of the full range of activities by and financing of lobbyists and those who
25 employ their services is essential to the maintenance of citizen confidence in the integrity of

26 michaelkohlhaas.org, a site that seeks to “collect and publish as many documents as possible about
27 municipal politics in Los Angeles, with somewhat of a focus on Business Improvement Districts in Los
28 Angeles.”)

1 local government." LAMC §48.01, subd. (B)(4). Respondent's failure to timely comply with the
2 CPRA has led to a valuable opportunity lost for transparency and democratic oversight, as
3 Respondent won't renew again for another five years. Notwithstanding the public's strong
4 interest in these issues, and despite the need for openness from private, non-profit corporations
5 providing public functions and municipal services, Respondent has disregarded its legal
6 obligations and restricted public access to information.

7 **D. Respondent is Not Claiming Any Exemptions**

8 Respondent, through its Executive Director Blair Besten, initially invoked a host of
9 exemptions including proprietary information, deliberative process, privileged information,
10 personnel information, drafts, notes, interagency or intra-agency memoranda, personal contact,
11 and private information. **Exhibits B, C, H, M, N** to 8/13/18 Petition. But, after Petitioner filed
12 this lawsuit, Mr. Briggs withdrew all exemptions. Briggs 11/7/18 email, **Exhibit 1** to Flynn Decl.
13 to Petitioner's Brief in Support of Petition for Order Compelling Disclosure ("Flynn Dec."); See
14 also Verified Answer to Petition for Writ of Mandate.

15 **E. Respondent is Improperly Withholding Requested Records**

16 **1. 1/24/17 Request: Respondent Waived Claimed Exemptions for** 17 **Redactions**

18 Although Ms. Besten attempted to make Petitioner's ability to review responsive records
19 difficult, when she did respond to Petitioner's January 24, 2017 CPRA request for "lacity.org"
20 emails (before Mr. Briggs got involved) she was able to, apparently with the assistance of an IT
21 person, by May 2017, provide Petitioner a thumb drive (for sale) containing native format files.
22 8/12/18 Petition ¶ 12; Riskin Dec. ¶ 11-12. These files were unredacted and no exemptions were
23 claimed. Riskin Dec. ¶ 11. She did, however, also print out and redact a subset of the records
24 responsive to the January 2017 request (approximately 250 pages). Briggs 11/7/18 email,
25 **Exhibit 1** to Flynn Dec.

26 Before the filing of this lawsuit, Ms. Besten redacted email addresses and phone numbers
27 from these approximately 250 pages. Briggs 11/7/18 email, **Exhibit 1** to Flynn Dec. She
28 apparently went through all the trouble to print and redact these records just to frustrate

1 Petitioner as she also produced multiple records where these same email addresses and phone
2 numbers were left unredacted. Riskin Dec. ¶ 12; 8/13/18 Petition ¶ 13.

3 Exemptions can be waived. Section 6254.5 states that where an “agency discloses a
4 public record that is otherwise exempt [] to a member of the public, this disclosure shall
5 constitute a waiver.” “Disclosure to one member of the public would constitute a waiver of the
6 exemption, requiring disclosure to any other person who requests a copy.” *County of Santa Clara*
7 *v. Superior Court* (2009) 170 Cal. App. 4th 1301, 1322, citing §6254.5. By producing multiple
8 records where these same email addresses and phone numbers were left unredacted Ms. Besten
9 waived any exemptions.

10 **2. 1/24/17 Request: Respondent Agrees to Search and Produce Records in**
11 **Native Format**

12 At the Court ordered meet and confer on December 21, 2018, Respondent agreed to
13 produce native electronic unredacted versions of the emails that Ms. Besten had previously
14 provided to Petitioner in hard copy with redactions in response to his 1/24/17 request. Briggs
15 12/27/18 email, **Exhibit 2** to Flynn Dec.

16 **3. 1/24/17 Request: Respondent Fails to Search for and Produce Records**
17 **in Native Format**

18 On December 31, 2018, Mr. Briggs sent Petitioner 1,418 unredacted electronic records,
19 supposedly of the emails that Ms. Besten had previously provided to Petitioner in hard copy with
20 redactions. Riskin Dec. ¶ 19. There were multiple problems with this production. First, 1,418
21 records is much more than the 250 hard copy pages at issue. Then, about half of the files (47.9%)
22 were duplicates. Riskin Dec. ¶ 19. Some files were duplicated as many as six times. Riskin Dec.
23 ¶ 19. After subtracting duplicates, there were 738 distinct files, still almost three times more than
24 the number of records Respondent was supposed to produce. Riskin Dec. ¶ 19.

25 Troublingly, even though Respondent produced such an abundance of records,
26 Respondent managed to leave out at least 23 of the records it had agreed to produce. Riskin Dec.
27 ¶ 19; Flynn 1/3/19 email, **Exhibit 3** to Flynn Dec. Not surprisingly, many of the 1,418 records
28 were not responsive to the January 2017 request at all. Respondent’s failure to produce all the

1 records it had agreed to while providing such a large volume of duplicative and non-responsive
2 records is proof that it failed to conduct an adequate search.

3 There were only about 250 hard copy pages – as some emails were more than one page
4 long there were fewer than 250 distinct email files. Respondent had the simple task of searching
5 for electronic versions of those files yet it failed to do so. *Respondent even admits it did not*
6 *conduct an adequate search*; “no special such effort was made” to ensure that the electronic files
7 it sent included all the emails it had produced in hard copy. Response to Interrogatory No. 31,
8 **Exhibit 4** to Flynn Dec. Forcing a requester to sort through 1,418 records where some files are
9 duplicated up to six times and some files are still missing is patently unreasonable and a failure
10 to comply with the CPRA. The Court should order Respondent to disclose all unredacted, native
11 format records Respondent previously produced redacted, in hard copy in response to his January
12 14, 2017 request.

13 **4. Respondent Must Conduct an Adequate Search**

14 Upon receipt of a CPRA request, an agency must search for requested records; it is
15 obliged to assist the requestor and to disclose records it can locate with reasonable effort. The
16 search must be “‘reasonably calculated to locate responsive documents.’” *City of San Jose v.*
17 *Superior Court* (2017) 2 Cal. 5th 608, 627; Gov’t Code § 6253. Furthermore, the accepted
18 standard is that the agency will “make reasonable efforts towards clarification and production.”
19 *Community Youth Athletic Center v. City of National City* (2013) 220 Cal. App. 4th 1385, 1418.
20 Here, however, there is little need for clarification. Petitioner’s CPRA requests are clear and
21 simple: the records he seeks are emails and he provided a date range and either a keyword or
22 sender/recipient for each request.

23 **5. Respondent Must Conduct a New Search for the 2/22/17, 6/26/17, and** 24 **10/26/17 Requests**

25 Not only was Respondent’s search for electronic versions of the 250 pages of redacted
26 records inadequate, its searches for all the requests at issue in this matter have been as well. The
27 CPRA assumes that a production of documents in response to a request will result from a search
28 that competently locates responsive records. As explained below, neither Ms. Besten nor Mr.

Briggs are competent to reply to CPRA requests for Respondent's emails, records subject to disclosure under the CPRA. Due to intentional dilatory tactics or just incompetence, once Respondent hired Mr. Briggs, its searches have been replete with problems which have made an adequate search impossible. Respondent cannot discharge its statutory duties by providing document dumps contaminated by so many non-responsive documents. Nevertheless, Respondent refuses to conduct a new search of its email system to adequately respond to any of the CPRA requests at issue here. It refuses to provide a good-faith response.

Ms. Besten acknowledged that it is ultimately her responsibility to ensure Respondent is complying with its statutory obligations under the CPRA. Deposition of Blair Besten, taken February 21, 2019 ("Besten Depo.") pg. 87, **Exhibit 5** to Flynn Dec. Yet, Ms. Besten admitted she has taken no steps herself, since the initiation of this lawsuit, to ensure that Respondent has produced all responsive records. Besten Depo. pg. 80-81.

i. Ms. Besten Lacks Knowledge to Conduct a Proper Search

Ms. Besten admitted she does not know how to conduct an adequate search for emails to satisfy Petitioner's CPRA requests. Petitioner asked Respondent to perform a new search and provide only file names for the emails, not the emails themselves. Interrogatory No. 24, **Exhibit 4** to Flynn Dec. Petitioner made this request so he could compare the files names from the new search to the files already produced. Flynn 1/9/19 email, **Exhibit 6** to Flynn Dec. Petitioner proposed that if any new files were identified, then Petitioner would let Respondent know and Respondent would have the opportunity to review the email record for exemptions and necessary redactions before producing it to Petitioner. Flynn 1/9/19 email, **Exhibit 6** to Flynn Dec. Had Respondent agreed to this proposal the majority of the 8/13/18 Petitioner would be moot as resolved. Instead, Respondent stated conducting new email searches would be an "undue and oppressive burden." Response to Interrogatory No. 24, **Exhibit 4** to Flynn Dec. When Ms. Besten was asked to explain why it would be an undue and oppressive burden to do a new search Mr. Briggs *instructed her not to answer*. Besten Depo. Pg. 69. When asked if it would be difficult for her to do a new search she answered "I do not know." Besten Depo. Pg. 69.

1 **ii. Mr. Briggs Will Only Search his “Repository” of Files from Ms.**
2 **Besten’s Inadequate Searches**

3 To address the issues of repeated technological problems, missing files, duplicate files,
4 files outside the requested time frame, and a small number of actually responsive records,
5 Petitioner has requested Respondent conduct a new search. Instead, Respondent has had Mr.
6 Briggs query only his “repository of potentially responsive records.” Respondent’s Response to
7 Interrogatory No. 33, **Exhibit 4** to Flynn Dec. Mr. Briggs “repository” consists only of files sent
8 by Ms. Besten through their fraught and mostly unsuccessful attempts at exchanging documents.
9 Besten Depo. Pg. 74. Not only is Ms. Besten unable to conduct an adequate search, she and her
10 counsel were unable to successfully transfer files between them. According to Respondent:

- 11 • Ms. Besten had multiple issues sending responsive files to Mr. Briggs to review. They
12 had transmission problems sharing files every way they tried including through a thumb
13 drive and through a shared file drive. Besten Depo. Pg. 70-71. Mr. Briggs “was unable
14 to receive or review them without re-formatting.” Response to Interrogatory No. 3,
15 **Exhibit 4** to Flynn Dec.
- 16 • Mr. Briggs was unable to install the software needed to review the records. He had to “*try*
17 *to install* Mozilla Thunderbird software in order to access the *first attempts* to send him
18 records.” Response to Interrogatory No. 3, **Exhibit 4** to Flynn Dec.

19 Once Respondent was able to transfer some records to its attorney, its attorney has been
20 unable to successfully or timely query that set of records. For example:

- 21 • On December 11, 2017, many months after responses were due, Mr. Briggs produced 19
22 records which he claimed were responsive to the February and/or June 2017 requests. In
23 fact, not only were they not responsive to either, they were responsive to Petitioner’s
24 January 2017 request and Ms. Besten had already produced them seven months earlier, in
25 May 2017. When Petitioner notified Mr. Briggs of the error on December 11, 2017 Mr.
26 Briggs responded, “You may get some material outside the dates requested.” He also
27 admitted he didn’t have all the records, although he had purportedly been working on the
28

1 matter since early October 2017 and Ms. Besten had stated the materials were ready as
2 far back as July 2017. (**Exhibit W** to 8/13/18 Petition).

- 3 • On December 15, 2017, Mr. Briggs sent Petitioner another 19 records, claiming these
4 were also responsive to the February and/or June 2017 requests. In fact, only 1 was
5 responsive. As with the records he had sent a few days earlier, the other 18 records were
6 responsive to Petitioner’s January 2017 request and Ms. Besten had already produced
7 them seven months earlier, in May 2017. Mr. Briggs also promised Petitioner would get
8 “about 1000 more emails next week.” As he has done since 2015 when representing the
9 Hollywood Media District BID, Mr. Briggs claims “technical issues” as the reason for
10 delay and as an excuse for producing a large volume of unresponsive records. (**Exhibit X**
11 to 8/12/18 Petition).
- 12 • On May 10, 2018, Mr. Briggs claimed to be attempting to send a test message but did not
13 send any records. Mr. Briggs again claimed technical difficulties, “[t]hese logistics are
14 driving me insane.” He also tried to blame his client for Respondent’s failure to produce
15 the records, “I will keep working on it with all my clients who don’t use Outlook!”
16 (**Exhibit GG** to 8/13/18 Petition).
- 17 • On May 17, 2018, Mr. Briggs said he had “one more glitch to overcome” and that he
18 would send the files.... “next week.” (**Exhibit II** to 8/13/18 Petition).

19 Therefore, when Mr. Briggs informed the Court that he was working on confirming its
20 searches have been complete he was not referring to Ms. Besten conducting new searches of
21 Respondent’s email accounts to ensure all responsive records have been produced but, instead,
22 he is only searching the incomplete depository of files on his own computer. Flynn 1/9/19 email,
23 **Exhibit 6** to Flynn Dec. These issues have resulted in unreasonable delays and incomplete
24 responses to Petitioner’s CPRA requests. An adequate search must be done to ensure compliance
25 with the CPRA.

26 **6. Respondent’s Court-Ordered Subsequent Searches Must Be Supervised**

27 **i. Respondent Should be Ordered to Hire Meridian Discovery or a** 28 **Similar Company to Supervise its Searches**

1 As Respondent has proven itself unable to conduct an adequate search to comply with its
2 statutory obligations under the CPRA, its searches for responsive records in this litigation must
3 be supervised. Petitioner requests the Court order Respondent to hire Meridian Discovery,
4 experts in Computer Forensics and e-Discovery, (<https://www.meridiandiscovery.com/>). In a
5 federal civil lawsuit in 2017 United States Magistrate Judge Rozella Oliver ordered a cell phone
6 released to Meridian Discovery to “perform search and filtering to located potentially responsive
7 documents.” Order to Release N.F.’s Cellular Telephone for Extraction, *Spenser v. Lunada Bay*
8 *Boys*, Case No. 2:16cv2129, Dkt. No. 487, filed 10/12/17, attached as **Exhibit 7** to Flynn Dec.
9 Meridian Discovery is available and able to conduct or supervise the searches for responsive
10 documents needed here. Flynn Dec. ¶ 2. The Court should order Respondent to hire Meridian
11 Discovery or a similar company to conduct or supervise the remaining searches.

12 **7. Respondent’s Failure to Search its MailChimp Email Account**

13 Respondent sent emails responsive to three of Petitioner’s CPRA requests (1/27/17,
14 2/22/17 (“City emails”), and 6/26/17) to the City from its MailChimp account, yet it has
15 steadfastly refused to search that account for responsive records. MailChimp is a marketing
16 service that facilitates the sending of emails. (<https://mailchimp.com/>). Emails Respondent sent
17 to the City through MailChimp were sent via its employee Paola with the following header:
18 “From: Historic Core BID <paola@historiccore.bid>.” Besten Depo. Pg. 81; Exhibit 1 to Besten
19 Depo./**Exhibit 8** to Flynn Dec.

20 That Respondent initially failed to search its MailChimp account was apparently an
21 oversight. But, when Petitioner’s counsel showed Ms. Besten an email Respondent had sent to
22 the City via MailChimp and asked Ms. Besten if she would search that email account for
23 additional responsive records she would not agree to do so. Besten Depo. Pg. 82-84. She even
24 tried to deny that they are emails saying, “I consider them not – I never considered them
25 emails...” Besten Depo. Pg. 84-85. (This is as asinine as saying emails sent through Gmail aren’t
26 really emails.) To add to the absurdity, when Ms. Besten was asked “[a]re you denying that it’s
27 emails that get sent out through MailChimp?,” Mr. Briggs instructed Ms. Besten not to answer
28 on the basis of the following nonsensical objections: “calls for a legal conclusion. Calls for an

expert opinion...” “whether they are or not is a technical answer. She’s not qualified. It has no foundation.” Besten Depo. Pg. 84-85. In case there is any doubt that emails sent via MailChimp are indeed emails, see <https://mailchimp.com/> which describes the company as an email marketing service, advertising, "Get the word out with email." Besten Depo. Pg. 82-84.

Since Ms. Besten’s deposition Petitioner has repeatedly asked Respondent – in person and through email – to search its MailChimp account for responsive emails to no avail. See 2/21/19 & 3/5/19 Flynn emails, **Exhibit 9** to Flynn Dec. The Court should order Respondent to search its MailChimp account and produce responsive records. This search should also be supervised or conducted by Meridian Discovery.

F. Respondent Has Stipulated to Producing Records in a More Timely Manner

Petitioner’s second cause of action, under the California Constitution, Art. I § 3 subd. (b)(2), requested the “Court enter an order declaring that for all future CPRA requests from Petitioner to Respondent, Respondent shall produce all responsive documents, subject to properly claimed exemptions, within 30 days, absent a showing of extraordinary hardship.” The California Constitution recognizes that the “people have the right of access to information concerning the conduct of the people’s business, and therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.” Cal. Const., Art. I §3, subd. (b)(1). This right is self-executing as the provisions of the California Constitution are mandatory and prohibitory. Cal. Const., Art. I §26.

At the trial setting conference on November 20, 2018, the Court ordered the parties to meet and confer, including a face-to-face meeting with Respondent’s decision-maker, to see if the parties could settle the matter or at least narrow the issues to be resolved. On December 21, 2018, pursuant to the Court’s directive, Petitioner Adrian Riskin and Blair Besten, Respondent’s Executive Director met, with their respective counsel, at the office of Respondent’s counsel, Jeff Briggs. Joint Stipulation Regarding Timetable for Respondent’s Future Responses to Petitioner’s CPRA Requests, filed concurrently herewith. The parties agreed that for all future CPRA requests from Petitioner to Respondent requesting email records, Respondent will search for responsive records and respond to Petitioner’s requests within 28 days and will provide an

1 estimated date of production calculated as follows: by maximum of $(2, N/250)$ weeks, where N is
2 the total number of responsive emails and $N/250$ is to be rounded up to the next whole number
3 when it is reasonable to do so. Thus Respondent will endeavor to produce responsive emails in
4 no more than 4 weeks (28 days) plus a maximum of $(2, N/250)$ weeks. (For example, if there are
5 1,000 responsive emails, production must be made within 8 weeks – 4 weeks to respond and 4
6 weeks to produce the records). Including the value 2 has the effect of affording Respondent no
7 less than 6 weeks to respond and produce no matter how few emails there are. The parties agree
8 to be flexible when there's good reason to be. Respondent will provide all responsive non-
9 exempt emails all in one batch when processing is complete.

10 The parties also agree that entry of the Court's order enforcing these terms will moot
11 Petitioner's second cause of action as having been resolved. Petitioner respectfully requests the
12 Court enter the order submitted with the Joint Stipulation filed concurrently herewith.

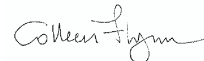
13 **IV. CONCLUSION**

14 For the foregoing reasons, Petitioner respectfully requests the Court grant the Petition.

15
16 DATED: July 8, 2019

Respectfully submitted,

17 LAW OFFICE OF COLLEEN FLYNN
18 Attorney for Petitioners



19 _____
20 COLLEEN FLYNN
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DECLARATION OF ADRIAN RISKIN

I, ADRIAN RISKIN, declare:

1. I am the Petitioner in this action.

2. In an effort to monitor the workings of the Historic Core Business Improvement District (“HCBID”) and other Business Improvement Districts, and share my findings on my website, I make public records requests pursuant to the CPRA.

3. I collect and publish documents about municipal politics in Los Angeles that I receive in response to CPRA requests. One of my areas of focus is Business Improvement Districts (“BIDs”). The materials on my website are available for free to the public.

4. I have been quoted in the *Los Angeles Times* and my website linked to in various articles. Just last week documents I obtained through the CPRA were referenced in two *Los Angeles Times* articles regarding charter schools and the articles linked directly to my website.

5. I have also been contacted by documentary film makers, public interest attorneys, and students from Boalt Hall’s Policy Advocacy Clinic who have utilized information on my website for their projects.

6. In 2017, I submitted five requests for public documents to the Historic Core Business Improvement District Property Owners Association (“HCBID”). One was dated January 24, 2017, two were dated February 22, 2017, one was dated June 26, 2017, and the last one was dated October 26, 2017.

7. BIDs such as the HCBID use publicly-disbursed money to collaborate and wield political influence with the City. Through the five CPRA requests at issue in this petition, I seek to understand and report on the ways in which HCBID’s staff and board of directors influence City officials with respect to pending legislation and other City matters. I also seek to understand and report on the means by which Ms. Besten, Respondent’s Executive Director, collaborates with the staff of other Downtown BIDs to present a unified set of concerns to City staff with whom they interact and lobby. The HCBID lobbies City officials on matters such as “DTLA 2040” and other planning and development projects.

8. At the time I requested communications between Respondent and its consultant, in

1 June 2017, the BID was undergoing its renewal process, pursuant to the Property and Business
2 Improvement District Law of 1994, which involved advocating for the passage of two key
3 ordinances.

4 9. At that time, I was seeking to understand how the HCBID and its consultant lobby
5 and influence the City with respect to this municipal legislation.

6 10. The HCBID never responded to any of my requests within 10 days.

7 11. In response to my 1/24/17 request, Ms. Besten provided me a thumb drive with 1,743
8 email files in EML format with no redactions. She had also printed out about 250 pages of other
9 emails. She redacted email addresses and phone numbers on these pages.

10 12. I inspected these pages at her office in May 2017. It seemed she was trying to make
11 my access to the records unreasonably difficult by requiring me to review the records in a dimly
12 lit room with no chair or table, printing copies in size 4 font, and only permitting two hours per
13 appointment. Nevertheless, I took photos of about 41 of the pages. The 41 pages comprised 23
14 distinct emails. These same email addresses and phone numbers were unredacted on the files on
15 the thumb drive. All the email address and phone numbers she redacted were business contact
16 information, not private contact information.

17 13. Regarding the 2/22/17 requests, in June 2017, Ms. Besten informed me that the
18 responses to these requests were complete. I made two different appointments to inspect the
19 records -- one in July 2017 and one in August 2017 -- but Ms. Besten cancelled both of them.
20 She said she would mail me the records but she never did.

21 14. Regarding the 6/26/17 request, Ms. Besten let me know the records were ready and I
22 could inspect them on August 2, 2017, at the same time as the records responsive to my 2/22/17
23 requests. But Ms. Besten cancelled the appointment. She said she would mail me the records but
24 she never did.

25 15. On October 10, 2017, Mr. Briggs emailed me that he was now handling CPRA
26 responses for the HCBID.

27 16. When Mr. Briggs started responding to my CPRA requests, the documents the
28

1 HCBID produced in response were often non-responsive or commingled with non-responsive
2 records and many duplicate records. Sometimes there were up six copies of a single record in the
3 production. This makes it very difficult to determine what, if anything, is responsive. This also
4 makes me believe that the HCBID has not done an adequate search to begin with.

5 17. On August 8, 2018, I filed my California Public Records Act Petition.

6 18. On December 21, 2018, I met at attorney Jeff Briggs office with Blair Besten, Mr.
7 Briggs, and my attorney Colleen Flynn. At that meeting Ms. Besten and Mr. Briggs agreed to
8 give me unredacted, electronic copies of the 250 pages of emails in response to my 1/24/17
9 CPRA request.

10 19. On December 31, 2018, Mr. Briggs sent me 1,418 files. About half - 47.9% - were
11 duplicates. Some files were duplicated as many as six times. There were 738 distinct files. Many
12 were not responsive to my 1/24/17 request. Of the 23 emails I had photographed in May 2017
13 *none* of them were included in Mr. Briggs' 12/31/18 production. Some were responsive to other
14 requests and had never been produced before. A number of those were emails between Ms.
15 Besten and Abraham Lopez, an employee of StreetPlus. These are responsive to my February
16 2017 request for StreetPlus emails and had never been produced before.

17 20. All exhibits to the 8/13/18 Petition that are emails to or from me and Blair Besten,
18 HCBID Executive Director, or attorney Jeff Briggs are true and correct copies of those emails.

19 I declare under penalty of perjury that the foregoing is true and correct.

20 Executed July 8, 2019, at Staunton, Virginia.

21
22 /s/ Adrian Riskin

23 _____
24 ADRIAN RISKIN
25
26
27
28

DECLARATION OF COLLEEN FLYNN

I, COLLEEN FLYNN, declare:

1. I am an attorney licensed to practice in the State of California. I represent the Petitioner in this action.

2. On February 21, 2019, I spoke with Arman Gungor of Meridian Discovery. I informed him I represented Petitioner in a CPRA lawsuit seeking disclosure of emails from Respondent and that Petitioner planned to ask the Court to order a company like his to supervise or conduct searches of Respondent's email accounts using date range, keyword, and sender/recipient information. He said that this is something that Meridian Discovery would be able to do. He estimated he would charge \$350/hour for such services.

3. I have a Gmail account and it is a simple task to query that email account using a date range, keyword, or sender/recipient name or email address.

4. Attached as **Exhibit 1** is a true and correct copy of an email I received from Jeff Briggs dated November 7, 2018.

5. Attached as **Exhibit 2** is a true and correct copy of an email I received from Jeff Briggs dated December 27, 2018.

6. Attached as **Exhibit 3** is a true and correct copy of an email I sent to Jeff Briggs dated January 3, 2019.

7. Attached as **Exhibit 4** is a true and correct copy of Respondent's Responses to Petitioner's Special Interrogatories, Set One, numbers 3, 24, 31, and 33.

8. Attached as **Exhibit 5** is a true and correct copy of excerpts from the February 21, 2019 deposition of Blair Besten, Respondent's Executive Director.

9. Attached as **Exhibit 6** is a true and correct copy of an email I sent to Jeff Briggs dated

1 January 9, 2019.

2 10. Attached as **Exhibit 7** is an order from a federal civil case: Order to Release N.F.'s
3 Cellular Telephone for Extraction, *Spenser v. Lunada Bay Boys*, Case No. 2:16cv2129, Dkt. No.
4 487, filed 10/12/17.

5 11. Attached as **Exhibit 8** is a true and correct copy of an email sent by Respondent using
6 MailChimp. This document is also Exhibit 1 to Ms. Besten's deposition.
7

8 12. Attached as **Exhibit 9** are true and correct copies of emails I sent to Mr. Briggs dated
9 February 21 and March 5, 2019.

10 I declare under penalty of perjury that the foregoing is true and correct.

11 Executed July 8, 2019, at Los Angeles, California.

12
13 

14 _____
COLLEEN FLYNN

RE: Riskin v. Historic Core BID--request for extension to respond to Petition

From: Jeff Briggs (jbriggs@jbriggslaw.com)

To: cflynnlaw@yahoo.com

Date: Wednesday, November 7, 2018, 4:59 PM PST

Further pursuant to our agreement below, I am reporting to you today as follows:

First, in regard to claimed exemptions, my client is prepared to testify under oath that it did not withhold any records on the basis of any exemption it claimed in Petition Exs. C, H, M, or N, which were responses provided by my client prior to my engagement. (Once I became involved in the record review and transmittal process, no exemptions were claimed. For reference, my record review and productions involved all but the first of the subject requests by your client (Petition Ex. A).) With one exception addressed below, my client asserted those exemption claims under the belief that it was required to identify any exemptions at the time of those responses and before its actual record review, in order to be sure that any potentially applicable exemptions were not waived and even though at the time it did not know if any of those exemptions would apply once the records were identified and reviewed. In fact, however, again subject to the one exception next discussed, once my client (or subsequently I) provided records to your client, no responsive records were withheld on the basis of any exemption listed in the referenced Exhibit responses.

The one exception was the "privacy" exemption claimed, which at the time my client understood to protect some email addresses and other individual contact information from dissemination. Thus, when my client provided your client access to physical copies of records as alleged in Petition pars. 12-13, which were in response only to the first of your client's subject requests (Petition Ex. A), it did so having redacted, by hand, email addresses from approximately 250 pages of those records. (Your client was given access to those redacted email printouts, hence his description of same in the Petition at par. 13.)

Thus, ultimately the only exemption ever actually used to withhold anything from your client was the "privacy" exemption as applied to some email addresses in those hand-redacted email printouts, the remainder of each of which records were provided to your client in person. None of the other exemptions asserted in the cited Petition Exhibits ever was used to withhold any record or partial record from your client. My client does not recall withholding any record, entirely or partially, on the basis of any other exemption claim; it kept all the hand-redacted records in a separate "exemption" box; and that box holds no other copies of or references to any other wholly or partially exempt records. All the claimed exemptions were asserted in order to preserve them.

It is unclear to us whether your client ever received copies of any of the redacted printouts he reviewed as set forth in Petition par. 12. All of those redacted records were provided in response to your client's 1/24/17 request (Petition Ex. A), and thus would not have been provided in an unredacted electronic form in any subsequent records production. I am in possession of all of those hand-redacted original records, and am happy to make them available to you and/or your client to review in whatever manner you wish. Unfortunately, I cannot remove the redactions, even though I believe that such redactions are not well-taken as exemptions. If you or your client wish to have these records inclusive of the email addresses that were redacted on these printouts, and/or still want the records in native electronic format, we will endeavor to find and provide them in that fashion. I only say "if" your client wants them in that manner because he did see them before, he evidently knows some or perhaps all of the email addresses redacted anyway (Petition par. 13), he didn't say anything about this before the Petition, and at this point he may not want them anymore other than for purposes of arguing that this Petition did result in getting him some records—I don't want to waste time trying to track these records down in their native format if the latter is his only purpose in wanting them, so in that event we will stipulate that these records were provided in an unredacted and electronic form as a result of this Petition for that purpose. We reserve the right to contend the Petition was not necessary to secure such records, but we will agree that such records have been provided even if he doesn't actually want them anymore.

Second, the Petition alleges in par. 60 that I said in Petition Ex OO that more records would be coming that week but did not in fact provide anymore records. In the first place, Ex. OO, a May 29, 2018 email (and at least in the copy I have as served on my client), does not say anything about more records coming that week. Regardless, my records show that more records were, in fact, provided your client on May 30 and 31, and that on May 31 I told him the provision of records was complete. Thus, apart from any other search or re-search effort we undertake, I can advise that as of May 31, 2018, your client was told that all records had been produced. In short, after May 31 we did not simply stop providing records that we otherwise have; the production was complete. To the extent that your client's claim that we have more records but didn't provide them is based on something I told him in Exhibit OO or otherwise, I can attest that that simply is not true. As of May 31, 2018, we believed our provision of responsive records was complete and so advised your client.

Finally for today's report per our agreement in the email string below, we are in the process of investigating whether there are additional responsive records that were not provided to your client. While we do believe that all responsive records in fact have been provided, we cannot completely discount the possibility that something unintentionally was overlooked, whether in the transmittal of records from my client to me for review or in the process of transmitting the records to your client. The logistical issues involved in such transmissions are not, as your client's Petition suggests, a mere excuse or frivolous—they are very real. Some email systems simply are not compatible with others for purposes of transmitting "native format" records to another, and computer skills among respondents differ widely. I can advise, however, that nothing intentionally was withheld, other than with respect to the very limited email address exemption issue described above. As to the potential for an unintentional failure to transmit, I will know more by early next week and will report accordingly.

EXHIBIT 1**Briggs 11/7/18 Email**

Please let me know if you have questions.

Jeffrey C. Briggs, Esq.

Briggs Law

6464 Sunset Boulevard

Suite 715

Hollywood, CA 90028

jbriggs@jbriggslaw.com <mailto:jbriggs@jbriggslaw.com>

www.jbriggslaw.com <<http://www.jbriggslaw.com/>>

(323) 461-5400

(323) 908-7275 fax

Click here <<https://jbriggslaw.sharefile.com/r/r5cead65667f41aab>> to upload encrypted files securely.

"In Hollywood, For Hollywood" SM

Ask me about Hollywood 4WRD and

ending homelessness in Hollywood,

Hollywood Central Park over the 101

Freeway, and the Walk of Fame Repair

Project

From: Jeff Briggs <jbriggs@jbriggslaw.com>

Sent: Wednesday, October 24, 2018 4:55 PM

To: 'Colleen Flynn' <cflynnlaw@yahoo.com>

Subject: RE: Riskin v. Historic Core BID--request for extension to respond to Petition

Many thanks for your professional courtesy.

Attached is the pending Answer as it presently stands and as per the below.

EXHIBIT 1

Briggs 11/7/18 Email

Jeffrey C. Briggs, Esq.

Briggs Law

6464 Sunset Boulevard

Suite 715

Hollywood, CA 90028

jbriggs@jbriggslaw.com <mailto:jbriggs@jbriggslaw.com>

www.jbriggslaw.com <<http://www.jbriggslaw.com/>>

(323) 461-5400

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Click here <<https://jbriggslaw.sharefile.com/r/r5cead65667f41aab>> to upload encrypted files securely.

"In Hollywood, For Hollywood" SM

Ask me about Hollywood 4WRD and

ending homelessness in Hollywood,

Hollywood Central Park over the 101

Freeway, and the Walk of Fame Repair

Project

From: Colleen Flynn <cflynnlaw@yahoo.com> <mailto:cflynnlaw@yahoo.com> >

Sent: Wednesday, October 24, 2018 4:29 PM

To: Jeff Briggs <jbriggs@jbriggslaw.com> <mailto:jbriggs@jbriggslaw.com> >

Subject: Re: Riskin v. Historic Core BID--request for extension to respond to Petition

I consent to your proposal.

colleen flynn | attorney at law

3435 wilshire blvd., suite 2910 | los angeles, ca 90010

213.252.9444 tel. | 213.252.0091 fax.

On Wednesday, October 24, 2018, 3:11:30 PM PDT, Jeff Briggs
<jbriggs@jbriggslaw.com <mailto:jbriggs@jbriggslaw.com> > wrote:

As per our brief conversation earlier today, here is my proposal in conjunction with our ongoing effort to resolve as much of this matter as is possible in a cooperative way:

First, I will have to you by Nov 7 (a) any records previously withheld as exempt to the extent I determine in good faith that the claimed exemptions were not well-taken; (b) a log of any records previously withheld as exempt and which I believe are in fact properly exempt, with sufficient information to enable us to further discuss same so as to try to reach agreement; and (c) as much information about the existence of any responsive records not previously provided as I can get by that date, which will be some information if not complete information by that time.

Second, I will send to you today what as of now is the Verified Answer to the Petition, but subject to final client review and a signed Verification, all to be filed by early next week; if there are any changes to the Answer on final review and when verified, for example in light of what I learn about the exemptions discussed above between now and early next week, those are likely to be minor and I will of course electronically serve you with the final version and alert you to any changes. Meanwhile, you will not seek a default subject to giving me two business days' notice if I haven't filed by Monday of next week.

Third, I represent to you that denials in the Answer based on present information will not prejudice my or my client's willingness to continue efforts to determine if any records are due your client, regardless of the reason any were not previously provided. In other words, whether due to exemptions or any other reason, we will continue to investigate the Petition's claims and if records exist that are due your client, they will be provided and the Answer will be amended accordingly as may need be.

Fourth, we will not seek any delay in the November 20 Trial Setting Conference.

My client's funds are limited and I represent to you that I am far more interested in getting you records and paying you any fee due sooner and lesser than later and greater, and at the least additional expense of time and money as is and to the extent possible. I appreciate your consideration of the above proposal in that spirit, to which I will hold fast regardless of your decision about approving my proposal above.

EXHIBIT 1

Briggs 11/7/18 Email

Thank you, please let me know whether this is agreeable as soon as you can.

Jeffrey C. Briggs, Esq.

Briggs Law

6464 Sunset Boulevard

Suite 715

Hollywood, CA 90028

jbriggs@jbriggslaw.com <mailto:jbriggs@jbriggslaw.com>

www.jbriggslaw.com <<http://www.jbriggslaw.com/>>

(323) 461-5400

(323) 908-7275 fax

Click here <<https://jbriggslaw.sharefile.com/r/r5cead65667f41aab>> to
upload encrypted files securely.

"In Hollywood, For Hollywood" SM

Ask me about Hollywood 4WRD and

ending homelessness in Hollywood,

Hollywood Central Park over the 101

Freeway, and the Walk of Fame Repair

Project

From: Jeffrey C Briggs <jbriggs@jbriggslaw.com

<mailto:jbriggs@jbriggslaw.com> >

Sent: Wednesday, October 17, 2018 4:23 PM

To: Colleen Flynn <cflynnlaw@yahoo.com> <mailto:cflynnlaw@yahoo.com> >

Subject: Re: Riskin v. Historic Core BID--request for extension to respond
to Petition

Thank you.

Sent from my dumb phone

Jeffrey C. Briggs

EXHIBIT 1

Briggs 11/7/18 Email

Briggs Law

jbriggs@jbriggslaw.com <mailto:jbriggs@jbriggslaw.com>

Off 323-461-5400

Cell 323-541-7050

Fax 323-908-7275

6464 Sunset Blvd. #715

Hollywood, CA 90028

Ask me about Hollywood 4WRD

and Ending Homelessness in Hollywood

Ask me about Hollywood Central Park on the 101

Ask me about the Walk of Fame Repair Project

On Oct 17, 2018, at 4:08 PM, Colleen Flynn <cflynnlaw@yahoo.com>
<mailto:cflynnlaw@yahoo.com> > wrote:

Petitioner agrees to a one week extension.

colleen flynn | attorney at law

3435 wilshire blvd., suite 2910 | los angeles, ca 90010

213.252.9444 tel. | 213.252.0091 fax.

On Wednesday, October 17, 2018, 3:12:04 PM PDT, Jeffrey C Briggs
<jbriggs@jbriggslaw.com> <mailto:jbriggs@jbriggslaw.com> > wrote:

My proposal is that I will be in further touch with what we don't or dont have and to try to resolve open issues by 10/24. If we do have stuff to provide we understand we need to pay you something and reach some going forward agreement. But right now our review is not quite finished so I can't yet tell you what we do or dont have and I sure don't want you to incur additional fees if we are going to have to pay them. I would rather focus on the search and resolution effort now than on the detailed answer response and incur a filing fee we might be able to avoid, even though regardless we still would try to work toward a cooperative resolution. There just isn't much money to go around and I want to save what can be saved by focusing on

EXHIBIT 1

Briggs 11/7/18 Email

the resolution effort and I just don't yet have all the info I need to work with you. So I would Like a week extension to respond as per the above.

Sent from my dumb phone

Jeffrey C. Briggs

Briggs Law

jbriggs@jbriggslaw.com <mailto:jbriggs@jbriggslaw.com>

Off 323-461-5400

Cell 323-541-7050

Fax 323-908-7275

6464 Sunset Blvd. #715

Hollywood, CA 90028

Ask me about Hollywood 4WRD

and Ending Homelessness in Hollywood

Ask me about Hollywood Central Park on the 101

Ask me about the Walk of Fame Repair Project

On Oct 17, 2018, at 3:01 PM, Colleen Flynn <cflynnlaw@yahoo.com>
<mailto:cflynnlaw@yahoo.com> > wrote:

Do you have a proposal?

colleen flynn | attorney at law

3435 wilshire blvd., suite 2910 | los angeles, ca 90010

213.252.9444 tel. | 213.252.0091 fax.

On Wednesday, October 17, 2018, 10:02:42 AM PDT, Jeff Briggs
<jbriggs@jbriggslaw.com> <mailto:jbriggs@jbriggslaw.com> > wrote:

I am going to need an additional week to be able to discuss with you

EXHIBIT 1

Briggs 11/7/18 Email

meaningfully what we do or don't have in the agreed effort to resolve as much as we can cooperatively, and to answer the petition if need be. Let me know, and thanks in advance regardless.

Jeffrey C. Briggs, Esq.

Briggs Law

6464 Sunset Boulevard

Suite 715

Hollywood, CA 90028

jbriggs@jbriggslaw.com <mailto:jbriggs@jbriggslaw.com>

www.jbriggslaw.com <<http://www.jbriggslaw.com/>>

(323) 461-5400

(323) 908-7275 fax

Click here <<https://jbriggslaw.sharefile.com/r/r5cead65667f41aab>> to upload encrypted files securely.

"In Hollywood, For Hollywood" SM

Ask me about Hollywood 4WRD and

ending homelessness in Hollywood,

Hollywood Central Park over the 101

Freeway, and the Walk of Fame Repair

Project

From: Jeffrey C Briggs <jbriggs@jbriggslaw.com>
<mailto:jbriggs@jbriggslaw.com> >

Sent: Tuesday, September 11, 2018 12:25 PM

To: Colleen Flynn <cflynnlaw@yahoo.com> <mailto:cflynnlaw@yahoo.com> >

Subject: Re: Riskin v. Historic Core BID--request for extension to respond to Petition

If in fact additional documents are due, yes, it would include that, eg, if in fact exemptions were in fact used to withhold docs. It not limited to that.

Thank you. Oct 17.

EXHIBIT 1

Briggs 11/7/18 Email

Sent from my dumb phone

Jeffrey C. Briggs

Briggs Law

jbriggs@jbriggslaw.com <mailto:jbriggs@jbriggslaw.com>

Off 323-461-5400

Cell 323-541-7050

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6464 Sunset Blvd. #715

Hollywood, CA 90028

Ask me about Hollywood 4WRD

and Ending Homelessness in Hollywood

Ask me about Hollywood Central Park on the 101

Ask me about the Walk of Fame Repair Project

On Sep 11, 2018, at 12:11 PM, Colleen Flynn <cflynnlaw@yahoo.com>
<mailto:cflynnlaw@yahoo.com> > wrote:

Dear Jeff,

Petitioner agrees to the one month extension to answer, conditioned on your offer to resolve some of the issues cooperatively. I assume this will include the production of additional documents?

colleen flynn | attorney at law

3435 wilshire blvd., suite 2910 | los angeles, ca 90010

213.252.9444 tel. | 213.252.0091 fax.

On Tuesday, September 11, 2018, 11:35:51 AM PDT, Jeff Briggs
<jbriggs@jbriggslaw.com> <mailto:jbriggs@jbriggslaw.com> > wrote:

Colleen, as we discussed today, I would appreciate the courtesy of a 30-day extension of time (which would be to October 17, 2018) to respond to the Petition in the referenced case. First, the BID is awaiting word from the carrier about coverage, including for defense, and thus is not yet able to decide on defense counsel engagement without incurring potentially additional costs that it would prefer to husband for potential payment of your client's attorney fees. Second, I believe there will be several issues we can resolve cooperatively so as to minimize fees and costs to both parties, and we would use the additional 30 days to explore those issues in what we hope will be a constructive effort. Finally, your client will not be prejudiced by the additional time because our trial setting conference is in late November.

Please let me know as soon as you can. I appreciate in advance what I anticipate will be a granting of the requested courtesy.

Jeffrey C. Briggs, Esq.

Briggs Law

6464 Sunset Boulevard

Suite 715

Hollywood, CA 90028

jbriggs@jbriggslaw.com <mailto:jbriggs@jbriggslaw.com>

www.jbriggslaw.com <<http://www.jbriggslaw.com/>>

(323) 461-5400

(323) 908-7275 fax

Click here <<https://jbriggslaw.sharefile.com/r/r5cead65667f41aab>> to upload encrypted files securely.

"In Hollywood, For Hollywood" SM

Ask me about Hollywood 4WRD and

ending homelessness in Hollywood,

Hollywood Central Park over the 101

Freeway, and the Walk of Fame Repair

Project

If you have received this communication in error, please notify

EXHIBIT 1

Briggs 11/7/18 Email

the sender immediately via the reply button.

This transmission is intended only for the use of the addressee and may contain information that is confidential, privileged, and exempt from disclosure under applicable law. If you are not the intended recipient, this disclosure is inadvertent and any use of this

communication is strictly prohibited.

US Treasury regulations require notification that to the extent this communication, including any attachment, contains or constitutes advice regarding any US Federal tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding any penalties potentially imposed by the Internal Revenue Service. If you are not the original addressee of this communication, and if any tax advice in it or any attachment is being used to promote, market, or recommend any transaction or investment to you, Treasury regulations require notification that (1) the advice was written to support the promotion or marketing of the transaction or investment, and (2) you should seek advice from an independent tax advisor regarding the transaction or investment based on your particular circumstances.



winmail.dat
36.8kB

RE: HCBID PRA // 12/21/18 notes from meet & confer

From: Jeff Briggs (jbriggs@jbriggslaw.com)
To: cflynnlaw@yahoo.com
Date: Thursday, December 27, 2018, 10:18 AM PST

SEE ALL CAPS BELOW

Jeffrey C. Briggs, Esq.
Briggs Law
6464 Sunset Boulevard
Suite 715
Hollywood, CA 90028
jbriggs@jbriggslaw.com

www.jbriggslaw.com

(323) 461-5400

(323) 908-7275 fax

[Click here](#) to upload encrypted files securely.

"In Hollywood, For Hollywood" SM

Ask me about *Hollywood 4WRD* and

ending homelessness in Hollywood,

Hollywood Central Park over the 101

Freeway, and the *Walk of Fame* Repair

Project

From: Colleen Flynn <cflynnlaw@yahoo.com>
Sent: Sunday, December 23, 2018 5:37 PM
To: Jeff Briggs <jbriggs@jbriggslaw.com>
Subject: HCBID PRA // 12/21/18 notes from meet & confer

Hi Jeff,

I'm writing to confirm the information you and your client provided as well as agreements we came to on Friday

EXHIBIT 2

Briggs 12/27/18 Email

12/21 at your office during the court-ordered meet & confer with our clients - Petitioner Adrian Riskin and Blair Besten of the Historic Core BID:

1) Regarding the documents that Ms. Bensen had previously redacted and provided in hard copy - you will now produce them unredacted in their native format. You estimated you would be able to provide them to Mr. Riskin in about a week. I SAID I WOULD HAVE THEM PRODUCED BY THE JAN 8 HEARING. MIGHT BE THIS WEEK. I REITERATED MY PRIOR MESSAGE THAT THE SUBJECT REDACTIONS WERE THE ONLY "EXEMPTIONS" THAT THE BID HAD IN FACT CLAIMED, AND MS. BESTEN EXPLAINED WHY SHE LISTED OTHER EXEMPTIONS AND THAT NOTHING OTHER THAN THE REDACTIONS WAS WITHHELD. WE ALSO NOTED THAT MR. RISKIN HAD BEEN GIVEN ACCESS TO THE REDACTED RECORDS AND NEVER PREVIOUSLY CHALLENGED THE REDACTIONS BY REQUESTING FURTHER INFORMATION OR UNREDACTED RECORDS NOR PREVIOUSLY ASKED THAT SUCH RECORDS BE PROVIDED WHEN OFFERED.

2) Regarding an agreement on how the HCBID will more timely respond to Mr. Riskin's PRA requests for emails in the future, we came to a tentative agreement that the BID will search for responsive emails and respond to Mr. Riskin's requests within 28 days with an estimated date of production calculated by $\max(2, N/250)$ weeks, where N is the number of emails that turn up in response to the search and $N/250$ is to be rounded up to the next whole number when it is reasonable to do so. Thus the BID will endeavor to produce responsive emails in no more than $4 + \max(2, N/250)$ weeks with rounding up when appropriate, with the understanding that all parties will be flexible when there's good reason to be. The BID will provide responsive non-exempt emails all in one batch when all processing is complete. Please confirm the HCBID agrees to process all future PRA requests for emails in this manner. CONFIRMED

3) Regarding "new" searches conducted recently to prepare for the meet and confer, you had Ms. Besten check to see if the HCBID has any hard copies of responsive documents but she did not.

3) When I asked that Ms. Besten re-do the searches of her email for two of the outstanding requests you both refused. In light of the technical problems you described in transferring files from HCBID to you, the small number of responsive emails produced, numerous duplicate files, and the numerous files outside the requested date-ranges, Petitioner maintains his position that a new search for responsive records is necessary. WE REFUSED TO DO A NEW SEARCH FROM A REMOTE LOCATION, AND IN GENERAL REFUSED TO RE-DO OUR ENTIRE SEARCH. NO PARTICULAR "TWO" NEW SEARCHES WERE SPECIFIED.

Please let me know if I missed anything. THIS WAS CERTAINLY NOT ALL WE DISCUSSED, BUT THESE ARE THE SALIENT POINTS.

I BELIEVE YOUR SUIT SOUGHT THREE BASIC THINGS: (1) RECORDS AS TO WHICH EXEMPTIONS HAD BEEN CLAIMED; (2) A TIMETABLE FOR FUTURE RESPONSES AND RECORD PRODUCTIONS; AND (3) MORE RECORDS RESPONSIVE TO THE SUBJECT REQUESTS, WHICH I BELIEVE TOTAL 5 WITH YOUR CLARIFICATION THAT THE JANUARY 2017 REQUEST IS IN ISSUE. IT IS MY VIEW THAT 1 AND 2 ARE RESOLVED (SUBJECT TO THE PRODUCTION OF UNREDACTED MATERIAL PREVIOUSLY PROVIDED TO YOUR CLIENT). IF YOU DISAGREE, JUST LET ME KNOW WHAT YOU STILL THINK IS UNRESOLVED.

Happy holidays, BACKATCHA

Colleen

colleen flynn | *attorney at law*

3435 wilshire blvd., suite 2910 | los angeles, ca 90010

213.252.9444 tel. | 213.252.0091 fax.

Riskin v. HCBID // Follow-up to HCBID's 12/31/18 production

From: Colleen Flynn (cflynnlaw@yahoo.com)

To: jbriggs@jbriggslaw.com

Bcc: adrian@chez-risk.in

Date: Thursday, January 3, 2019, 6:30 PM PST

Dear Jeff,

I'm writing regarding the files you recently sent Mr. Riskin on December 31, 2018.

At our meet and confer on December 21st you agreed to provide in native electronic format (and unredacted) the emails that Ms. Besten had previously redacted and provided to Mr. Riskin in hard copy back in May 2017. These documents were in response to Mr. Riskin's Jan 24, 2017 CPRA request seeking emails with lacity.org only. You had the redacted hard copies in a stack on your desk when we met.

Thank you for sending files to Mr. Riskin as promised. However, as explained below, this production raises many serious issues about the HCBID's continued failure to comply with the CPRA, even in the midst of litigation.

On December 31st you produced 1418 eml files. These accounted for 738 distinct files. (You claimed these files were all the previously redacted emails from Ms. Besten's production in May 2017.)

Not only were about half (47.9%) of the files duplicates, many of the files you provided were not among the originally redacted emails, as there were nowhere near 738 distinct redacted emails in the stack. Since you produced many more emails than were even in that stack, ***it is disconcerting that this production did not even include many of the emails that were originally redacted.***

My client photographed 41 of the redacted sheets at the inspection in May 2017. These sheets comprised 23 distinct emails. ***None*** of these 23 emails were included in your December 31st production. (Of these 23, you failed to produce 11 on December 31 or at any other time electronically as promised. The remaining 12 were not produced in this production although they were produced unredacted by Ms. Besten in May 2017.)

Thus this production did not contain all previously redacted emails. Below are the emails that were not produced on December 31, 2018, in May 2017 unredacted, or at any other time:

01. 2016_10_04_1514 Adele Yellin to David Gray

EXHIBIT 3

Flynn 1/3/19 Email

02. 2016_11_29_1130 Adele Yellin to Shane Phillips
03. 2016_02_09_1605 Tonna Onyendu to Blair Besten
04. 2016_02_10_1030 Tonna Onyendu to Blair Besten
05. 2016_02_10_1145 Tonna Onyendu to Blair Besten
06. 2017_01_17_0942 Ron Chowdhury to Blair Besten
07. 2016_12_01_0938 Kurt Knecht to ?? CC Blair Besten
08. 2016_08_02_0900 Ernesto Larias to various incl Blair Besten
09. 2016_05_23_1623 Jessica Wethington McLean to various incl Blair Besten
10. 2016_02_17_1150 Besten to CD14 and ??
11. 2016_??_?? National Night Out 2016 Parking

Also, you claim that the 630 duplicated files were due to multiple searches. This is implausible because the request was for emails between the BID and lacity.org and subdomains only. There was no need to do more than one search to locate this material and yet some emails were duplicated as many as six times. It's clear that Ms. Besten is able to conduct searches that don't produce duplicate files as she did so with more than 1700 emails in May 2017. This extensive duplication creates a significant amount of unnecessary work for the requester to analyze and understand the material.

Not only that, but many of the emails produced on December 31 were not actually responsive to the request at all, i.e., not involving any email addresses at lacity.org. It's impossible to understand what kind of adequate search would have produced them.

It appears that there are two obvious ways to fix this problem. First, search for all emails between 1/1/2016 and 1/24/2016 in staff accounts using lacity.org as a key word and produce all results.

Alternatively you could produce the actual redacted emails in eml format as you agreed to do. Either of these is acceptable to my client, but whichever you choose, it will also be necessary to allow him access to the printed redacted emails so that he can check that the production was adequate and complete.

The emails produced on December 31st also include a number of messages between Ms. Besten and Abraham Lopez, an employee of StreetPlus. These are responsive to Mr. Riskin's February 22, 2017 request for StreetPlus emails but they were not previously produced in electronic format in response to his February 22, 2017 request or any other request.

I suggest we set up a time to discuss to see if we can resolve some of these issues before the status conference/trial setting next Tuesday, January 8th.

I am available in the afternoon tomorrow January 4th and Monday January 7th.

I look forward to hearing back from you.

EXHIBIT 3

Flynn 1/3/19 Email

Best,

Colleen

colleen flynn | *attorney at law*

3435 wilshire blvd., suite 2910 | los angeles, ca 90010

213.252.9444 tel. | 213.252.0091 fax.

EXHIBIT 3

Flynn 1/3/19 Email

1 BRIGGS LAW OFFICE
2 JEFFREY C. BRIGGS (No. 100369)
3 6464 Sunset Blvd.
4 Suite 715
5 Hollywood, CA 90028
6 Phone: (323) 461-5400
7 Fax: (323) 908-7275
8 Email: jbriggs@jbriggslaw.com

9 Attorney for Respondent Historic Core Business
10 Improvement District Property Owners
11 Association, Inc.

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF

14 Adrian Riskin,

15 Petitioner,

16 vs.

17 Historic Core Business Improvement
18 District Property Owners
19 Association, Inc.,

20 Respondent.

CASE NO. BS174718

(Assigned to the Hon. James Chalfant,
Dept. 85)

RESPONDENT'S RESPONSES TO
PETITIONER'S SPECIAL
INTERROGATORIES, SET ONE

21 PROPOUNDING PARTY: Petitioner Adrian Riskin

22 RESPONDING PARTY: Respondent Historic Core BID

23 SET NO.: One

24 Respondent Historic Core Business Improvement District Property Owners
25 Association, Inc. ("Respondent") responds as follows to Petitioner Adrian Riskin's
26 ("Petitioner") Special Interrogatories, Set One:

27 **GENERAL OBJECTIONS**

28 1. Respondent objects to the first "Instruction" to the extent and on the
grounds that it suggests any waiver of the attorney-client privilege or of the attorney

1 work-product protection or seeks to invade said privilege and protection.

2 This general objection is incorporated in each of the responses below by this
3 reference.

4
5 **FURTHER RESPONSES**

6
7 **INTERROGATORY NO. 1:**

8 Describe all search methods used by YOU to identify emails responsive to
9 Petitioner's January 24, 2017 CPRA request.

10
11 **RESPONSE TO INTERROGATORY NO. 1:**

12 A search was done on Respondent's email system for "lacity," "lacity.org," "lapd,"
13 "lapd.city.org," and "lapd.online," and then for all such identified emails after
14 1/1/16. Other keywords may have been used to make sure that all requested emails
15 were identified by the searches, such as for some individual city personnel names,
16 but Respondent does not recall that additional such searches yielded additional
17 results.
18
19

20 **INTERROGATORY NO. 2:**

21 Describe the method YOU used to transfer 1,743 EML files responsive to
22 Petitioner's January 24, 2017 CPRA request to Petitioner.

23
24 **RESPONSE TO INTERROGATORY NO. 2:**

25 Mozilla Thunderbird was used to translate responsive emails from the gmail system
26 to an .eml format and then to send them to Petitioner.
27
28

1 **INTERROGATORY NO. 3:**

2 Describe all problems YOU encountered in transferring EML files responsive to
3
4 Petitioner's subsequent requests.

5 **RESPONSE TO INTERROGATORY NO. 3:**

6 Mozilla Thunderbird's installation on Respondent's staff computer caused a
7
8 number of problems for that computer after records were sent to Petitioner, so it
9 was removed. Respondent also was concerned that Petitioner or others could use
10 Petitioner's publication of .eml format emails to hack into Respondent's computer
11 system, or that the .eml format would provide private information of third parties to
12 petitioner and potentially others, and thus sought to redact some such information
13 from some responsive emails. Subsequently, responsive records needed to go to
14 Respondent's counsel for exemption review and counsel was unable to receive or
15 review them without re-formatting and due to volume limitations. Several efforts
16 were made to send counsel batches of responsive records, sometimes
17 unsuccessfully. Mozilla Thunderbird was temporarily re-installed to allow all of
18 the potentially responsive records to be sent to counsel. Counsel still encountered
19 problems accessing such records, evidently due to volume restraints and duplicate
20 sends by Respondent. Respondent's counsel also had to try to install Mozilla
21 Thunderbird software in order to access the first attempts to send him records.
22 Eventually Respondent's counsel was able to access the records, complete the
23 review, and send them to Respondent successfully. The fundamental difficulty is in

1 translating gmail emails for purposes of sharing them with counsel and a third party
2 in "native format" for review and provision to Petitioner, a technical effort
3
4 Respondent does not require in the ordinary conduct of its business and for which
5 Respondent is not prepared with expertise except as required to purchase it.

6 **INTERROGATORY NO. 4:**
7

8 Explain why YOU did not use the same method YOU used to transfer files to
9 Petitioner in response to his 1/24/17 request to transfer EML files responsive to any
10 of Petitioner's subsequent requests.
11

12 **RESPONSE TO INTERROGATORY NO. 4:**

13 OBJECTION: This interrogatory assumes a fact not in evidence, to wit that the
14 same method was not used, at least in part and eventually.
15

16 SUBJECT TO, AND WITHOUT PREJUDICE TO OR WAIVER OF, THE
17 FOREGOING OBJECTIONS, Respondent states that it did not have counsel at the
18 time the first responses were sent to Petitioner electronically. Furthermore,
19 Respondent subsequently became concerned about the nature of some information
20 transmitted in the .eml format conversion. Respondent subsequently did have
21 counsel to assist in the process of reviewing potentially responsive records for
22 exemptions and then providing responsive non-exempt records to Petitioner. Both
23 tried to avoid using Mozilla Thunderbird in order to avoid system problems it had
24 caused Respondent previously.
25
26
27
28

1 **INTERROGATORY NO. 5:**

2 Provide all dates that Streetplus has been YOUR clean and safe provider.

3
4 **RESPONSE TO INTERROGATORY NO. 5:**

5 January 31, 2015 to present, and "safety" services only, not "clean" services as
6 Respondent understands the inquiry.

7
8 **INTERROGATORY NO. 6:**

9 Provide all dates that Streetplus emailed YOU in 2016.

10 **RESPONSE TO INTERROGATORY NO. 6:**

11
12 OBJECTIONS: One of Petitioner's requests at issue in this action was for all
13 emails to or from Streetplus during 2016, and they were provided to the extent they
14 still existed when the search was conducted; Petitioner can perform his own review
15 of the records he received responsive to that request to find the emails sent by
16 Streetplus to Respondent to compile his own list of those dates, and asking
17 Respondent to do so for him seeks to impose an undue and oppressive burden on
18 Respondent. Furthermore, to the extent it seeks records not in Respondent's
19 possession, this interrogatory seeks records neither relevant to the subject matter of
20 this action nor reasonably calculated to lead to the discovery of relevant or
21 otherwise admissible evidence, which also separately seeks to impose on
22 Respondent an undue and oppressive burden.
23
24
25
26

27 **INTERROGATORY NO. 7:**

28 Provide all dates that Streetplus emailed YOU in 2017.

1 **RESPONSE TO INTERROGATORY NO. 7:**

2 OBJECTIONS One of Petitioner's requests at issue in this action was for all emails
3 to or from Streetplus during 2016, and they were provided to the extent they still
4 existed when the search was conducted; Petitioner can perform his own review of
5 the records he received responsive to that request to find the emails sent by
6 Streetplus to Respondent to compile his own list of those dates, and asking
7 Respondent to do so for him seeks to impose an undue and oppressive burden on
8 Respondent. Furthermore, to the extent it seeks records not in Respondent's
9 possession, this interrogatory seeks records neither relevant to the subject matter of
10 this action nor reasonably calculated to lead to the discovery of relevant or
11 otherwise admissible evidence, which also separately seeks to impose on
12 Respondent an undue and oppressive burden.

13 **INTERROGATORY NO. 8:**

14 Provide the number of shift reports Streetplus emailed YOU per day in 2016.

15 **RESPONSE TO INTERROGATORY NO. 8:**

16 OBJECTIONS: Assumes facts not in evidence, namely that Streetplus sent such
17 reports every day during any period of time. Furthermore, one of Petitioner's
18 requests at issue in this action was for all emails to or from Streetplus during 2016,
19 and they were provided to the extent they still existed when the search was
20 conducted; Petitioner can perform his own review of the records he received
21 responsive to that request to find the emails sent by Streetplus to Respondent to

1 make his own responsive computation, and asking Respondent to do so for him
2 seeks to impose an undue and oppressive burden on Respondent. In addition, to the
3 extent it seeks records not in Respondent's possession, this interrogatory seeks
4 records neither relevant to the subject matter of this action nor reasonably
5 calculated to lead to the discovery of relevant or otherwise admissible evidence,
6 which also separately seeks to impose on Respondent an undue and oppressive
7 burden.
8

9
10 SUBJECT TO, AND WITHOUT PREJUDICE TO OR WAIVER OF, THE
11 FOREGOING OBJECTIONS, Respondent states that reports on Streetplus's daily
12 activities generally were sent to respondent once a day, sometimes twice a day, and
13 some days not at all, during 2016, and at some point Streetplus stopped sending
14 them except occasionally.
15

16
17 **INTERROGATORY NO. 9:**

18 Provide the number of shift reports Streetplus emailed YOU per day in 2017.
19

20 **RESPONSE TO INTERROGATORY NO. 9:**

21 OBJECTIONS: Assumes facts not in evidence, namely that Streetplus sent such
22 reports every day during any period of time. Furthermore, one of Petitioner's
23 requests at issue in this action was for all emails to or from Streetplus during 2016,
24 and they were provided to the extent they still existed when the search was
25 conducted; Petitioner can perform his own review of the records he received
26 responsive to that request to find the emails sent by Streetplus to Respondent to
27
28

1 make his own responsive computation, and asking Respondent to do so for him
2 seeks to impose an undue and oppressive burden on Respondent. In addition, to the
3 extent it seeks records not in Respondent's possession, this interrogatory seeks
4 records neither relevant to the subject matter of this action nor reasonably
5 calculated to lead to the discovery of relevant or otherwise admissible evidence,
6 which also separately seeks to impose on Respondent an undue and oppressive
7 burden.
8

9
10 SUBJECT TO, AND WITHOUT PREJUDICE TO OR WAIVER OF, THE
11 FOREGOING OBJECTIONS, Respondent states that reports on Streetplus's daily
12 activities only occasionally were sent during January of 2017.
13

14 **INTERROGATORY NO. 10:**

15 Which of YOUR employees received shift reports from Streetplus in 2016?
16

17 **RESPONSE TO INTERROGATORY NO. 10:**

18 Blair Besten.
19

20 **INTERROGATORY NO. 11:**

21 Which of YOUR employees received shift reports from Streetplus in 2017?
22

23 **RESPONSE TO INTERROGATORY NO. 11:**

24 Blair Besten.
25

26 **INTERROGATORY NO. 12:**

27 Provide any and all policies regarding YOUR retention and/or deletion of
28 Streetplus shift reports from staff email accounts.

1 **RESPONSE TO INTERROGATORY NO. 12:**

2 Streetplus reports on their daily activities generally were and are not retained.

3
4 **INTERROGATORY NO. 13:**

5 Did YOU receive shift reports from Streetplus on January 19, 20, 21 and/or 22,
6 2017?

7
8 **RESPONSE TO INTERROGATORY NO. 13:**

9 Respondent received a report of Streetplus's daily activities on January 19, 20, and
10 21, 2017. Respondent has no record of receiving such a report on January 22,
11 2017.
12

13 **INTERROGATORY NO. 14:**

14 Did YOU send or receive one or more emails to/from/cc/bcc email addresses at
15 lacity.org or LAPD on March 17, March 21, May 10, and/or May 22, 2017?
16

17 **RESPONSE TO INTERROGATORY NO. 14:**

18 March 17, 2017, yes; Respondent has no records of receiving or sending any such
19 emails on the remaining dates listed.
20

21 **INTERROGATORY NO. 15:**

22 Describe all steps YOU took to preserve responsive emails after receiving each of
23 Petitioner's CPRA requests at issue in this litigation.
24

25 **RESPONSE TO INTERROGATORY NO. 15:**

26 OBJECTION: This interrogatory assumes facts not in evidence and inconsistent
27 with the law, to wit, that Respondent had a duty to preserve emails at any time prior
28

1 to any knowledge of this action or its likelihood, and that any potentially
2 “responsive” emails existing at the time any CPRA request was received was a
3 public record to be retained by Respondent in the ordinary course (as opposed to
4 being deleted in the ordinary course, rendering it a non-public record and not
5 responsive to the request).
6

7
8 SUBJECT TO, AND WITHOUT PREJUDICE TO OR WAIVER OF, THE
9 FOREGOING OBJECTIONS, Respondent states that it took no special steps either
10 to preserve or discard any potentially responsive record upon or after receipt of any
11 of the CPRA requests at issue in this action, or after records were produced in
12 response to any subject requests.
13

14 **INTERROGATORY NO. 16:**
15

16 Provide the number of emails YOU produced to Petitioner in response to his
17 February 22, 2017 CPRA request for emails between YOU and the City of Los
18 Angeles.
19

20 **RESPONSE TO INTERROGATORY NO. 16:**

21 OBJECTIONS: This interrogatory assumes facts contrary to the evidence, to wit,
22 that the subject request sought only the emails specified, and to the extent it asks
23 Respondent to separate out records sent in response to less than the entire request,
24 or otherwise to compile responsive information Petitioner can compile himself from
25 the records he already received from Respondent, it seeks to impose on Respondent
26 an undue and oppressive burden.
27
28

1 SUBJECT TO, AND WITHOUT PREJUDICE TO OR WAIVER OF, THE
2 FOREGOING OBJECTIONS, Respondent is providing herewith further records
3 from which the requested information can be compiled by Petitioner, exclusive of
4 responsive records that may have been produced to Petitioner in response to other
5 than the subject request.
6

7
8 **INTERROGATORY NO. 17:**

9 Provide the file name for each email YOU produced to Petitioner in response to his
10 February 22, 2017 CPRA request for emails between YOU and the City of Los
11 Angeles.
12

13 **RESPONSE TO INTERROGATORY NO. 17:**

14 OBJECTIONS: This interrogatory assumes facts contrary to the evidence, to wit,
15 that the subject request sought only the emails specified, and to the extent it asks
16 Respondent to separate out records sent in response to less than the entire request,
17 or otherwise to compile responsive information Petitioner can compile himself from
18 the records he already received from Respondent, it seeks to impose on Respondent
19 an undue and oppressive burden.
20
21

22 SUBJECT TO, AND WITHOUT PREJUDICE TO OR WAIVER OF, THE
23 FOREGOING OBJECTIONS, Respondent is providing herewith further records
24 from which the requested information can be compiled by Petitioner, exclusive of
25 responsive records that may have been produced to Petitioner in response to other
26 than the subject request.
27
28

1 **INTERROGATORY NO. 18:**

2 Provide the number of emails YOU produced to Petitioner in response to his
3
4 February 22, 2017 CPRA request for emails between YOU and Streetplus.

5 **RESPONSE TO INTERROGATORY NO. 18:**

6 OBJECTIONS: This interrogatory asks Respondent to compile responsive
7
8 information Petitioner can compile himself from the records he already received
9 from Respondent, to which extent it seeks to impose on Respondent an undue and
10 oppressive burden. It also assumes facts contrary to the evidence, to wit, that
11 records arguably responsive to the subject request were not also included in records
12 produced by Respondent in response to other requests, inasmuch as those different
13 searches also could yield records responsive to the subject request.
14

15
16 SUBJECT TO, AND WITHOUT PREJUDICE TO OR WAIVER OF, THE
17 FOREGOING OBJECTIONS, Respondent is providing herewith further records
18 from which the requested information can be compiled by Petitioner, exclusive of
19 responsive records that may have been produced to Petitioner in response to other
20 than the subject request.
21

22 **INTERROGATORY NO. 19:**

23
24 Provide the file name for each email YOU produced to Petitioner in response to his
25 February 22, 2017 CPRA request for emails between YOU and Streetplus.
26
27
28

1 **RESPONSE TO INTERROGATORY NO. 19:**

2 OBJECTIONS: This interrogatory asks Respondent to compile responsive
3 information Petitioner can compile himself from the records he already received
4 from Respondent, to which extent it seeks to impose on Respondent an undue and
5 oppressive burden. It also assumes facts contrary to the evidence, to wit, that
6 records arguably responsive to the subject request were not also included in records
7 produced by Respondent in response to other requests, inasmuch as those different
8 searches also could yield records responsive to the subject request.
9

10 SUBJECT TO, AND WITHOUT PREJUDICE TO OR WAIVER OF, THE
11 FOREGOING OBJECTIONS, Respondent is providing herewith further records
12 from which the requested information can be compiled by Petitioner, exclusive of
13 responsive records that may have been produced to Petitioner in response to other
14 than the subject request.
15

16 **INTERROGATORY NO. 20:**

17 Provide the number of emails YOU provided to Petitioner in response to his June
18 26, 2017 CPRA request.
19

20 **RESPONSE TO INTERROGATORY NO. 20:**

21 OBJECTIONS: This interrogatory asks Respondent to compile responsive
22 information Petitioner can compile himself from the records he already received
23 from Respondent, to which extent it seeks to impose on Respondent an undue and
24 oppressive burden. It also assumes facts contrary to the evidence, to wit, that
25

1 records arguably responsive to the subject request were not also included in records
2 produced by Respondent in response to other requests, inasmuch as those different
3 searches also could yield records responsive to the subject request.
4

5 SUBJECT TO, AND WITHOUT PREJUDICE TO OR WAIVER OF, THE
6 FOREGOING OBJECTIONS, Respondent is providing herewith further records
7 from which the requested information can be compiled by Petitioner, exclusive of
8 responsive records that may have been produced to Petitioner in response to other
9 than the subject request.
10

11
12 **INTERROGATORY NO. 21:**

13 Provide the file name for each email YOU provided to Petitioner in response to his
14 June 26, 2017 CPRA request.
15

16 **RESPONSE TO INTERROGATORY NO. 21:**

17 OBJECTIONS: This interrogatory asks Respondent to compile responsive
18 information Petitioner can compile himself from the records he already received
19 from Respondent, to which extent it seeks to impose on Respondent an undue and
20 oppressive burden. It also assumes facts contrary to the evidence, to wit, that
21 records arguably responsive to the subject request were not also included in records
22 produced by Respondent in response to other requests, inasmuch as those different
23 searches also could yield records responsive to the subject request.
24

25 SUBJECT TO, AND WITHOUT PREJUDICE TO OR WAIVER OF, THE
26 FOREGOING OBJECTIONS, Respondent is providing herewith further records
27
28

1 from which the requested information can be compiled by Petitioner, exclusive of
2 responsive records that may have been produced to Petitioner in response to other
3 than the subject request.
4

5 **INTERROGATORY NO. 22:**

6 Provide the number of emails YOU provided to Petitioner in response to his
7
8 October 26, 2017 CPRA request.

9 **RESPONSE TO INTERROGATORY NO. 22:**

10 OBJECTIONS: This interrogatory asks Respondent to compile responsive
11 information Petitioner can compile himself from the records he already received
12 from Respondent, to which extent it seeks to impose on Respondent an undue and
13 oppressive burden. It also assumes facts contrary to the evidence, to wit, that
14 records arguably responsive to the subject request were not also included in records
15 produced by Respondent in response to other requests, inasmuch as those different
16 searches also could yield records responsive to the subject request.
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20 SUBJECT TO, AND WITHOUT PREJUDICE TO OR WAIVER OF, THE
21 FOREGOING OBJECTIONS, Respondent is providing herewith further records
22 from which the requested information can be compiled by Petitioner, exclusive of
23 responsive records that may have been produced to Petitioner in response to other
24 than the subject request.
25
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1 **INTERROGATORY NO. 23:**

2 Provide the file name for each email YOU provided to Petitioner in response to his
3
4 October 26, 2017 CPRA request.

5 **RESPONSE TO INTERROGATORY NO. 23:**

6 OBJECTIONS: This interrogatory asks Respondent to compile responsive
7
8 information Petitioner can compile himself from the records he already received
9
10 from Respondent, to which extent it seeks to impose on Respondent an undue and
11
12 oppressive burden. It also assumes facts contrary to the evidence, to wit, that
13
14 records arguably responsive to the subject request were not also included in records
15
16 produced by Respondent in response to other requests, inasmuch as those different
17
18 searches also could yield records responsive to the subject request.

19 SUBJECT TO, AND WITHOUT PREJUDICE TO OR WAIVER OF, THE
20
21 FOREGOING OBJECTIONS, Respondent is providing herewith further records
22
23 from which the requested information can be compiled by Petitioner, exclusive of
24
25 responsive records that may have been produced to Petitioner in response to other
26
27 than the subject request.

28 **INTERROGATORY NO. 24:**

Provide a list of the emails to/from/cc/bcc lacity.org and/or lapd.online that are
presently in Ms. Beston's email account/s dated between January 25, 2017 and
September 15, 2017.

1 **RESPONSE TO INTERROGATORY NO. 24:**

2 OBJECTIONS: This interrogatory asks Respondent to perform a new search for
3 records and therefore seeks information neither relevant to the subject matter of this
4 action nor calculated to lead to the discovery of admissible evidence, and it also
5 seeks to impose on Respondent an undue and oppressive burden. Furthermore, this
6 interrogatory assumes a fact not in evidence, to wit that Ms. Beston's present email
7 accounts still contain all records previously provided to Petitioner in response to
8 any of his subject Public Record Act requests.
9
10

11 **INTERROGATORY NO. 25:**

12 Provide the dates YOU completed the search for responsive records to Petitioner's
13 February 22, June 26, and October 26, 2017 CPRA requests.
14
15

16 **RESPONSE TO INTERROGATORY NO. 25:**

17 OBJECTION: This interrogatory is compound and would cause this set of
18 interrogatories to exceed the permitted number of interrogatories. It also seeks to
19 impose on Respondent an undue and oppressive burden because the information
20 requested can be compiled by petitioner from the records provided to him in
21 response to his prior CPRA requests.
22
23

24 SUBJECT TO, AND WITHOUT PREJUDICE TO OR WAIVER OF, THE
25 FOREGOING OBJECTION, Respondent states that the search completion dates
26 correspond roughly to the dates on which records responsive to a subject request or
27 a portion thereof were provided to Petitioner, information that Petitioner can
28

1 compile for himself from the emails containing responsive records previously
2 provided to him.

3
4 **INTERROGATORY NO. 26:**

5 List any and all reasons the frequency of emails YOU exchanged with recipients at
6 lacity.org might have changed from 2016 to 2017.

7
8 **RESPONSE TO INTERROGATORY NO. 26:**

9 OBJECTIONS: This interrogatory expressly calls for speculation and assumes
10 facts not in evidence, both with respect to the phrase "might have."

11
12 SUBJECT TO, AND WITHOUT PREJUDICE TO OR WAIVER OF, THE
13 FOREGOING OBJECTIONS, Respondent states that it has attempted to reduce
14 email communication with the city, and believes the city may also have done so *vis*
15 *a vis* all Business Improvement Districts in Los Angeles, possibly including
16 Respondent, and particularly in regard to non-essential emails such as notices and
17 scheduling, in order to improve the ability to respond to Petitioner's ongoing and
18 extensive Public Record Act requests in a timely and efficient manner.
19

20
21 **INTERROGATORY NO. 27:**

22 List any and all reasons why a keyword search from emails in YOUR email
23 accounts might fail to identify emails that match the search criteria.

24
25 **RESPONSE TO INTERROGATORY NO. 27:**

26 OBJECTIONS: This interrogatory expressly calls for speculation and assumes
27 facts not in evidence, both with respect to the phrase "might."
28

1 SUBJECT TO, AND WITHOUT PREJUDICE TO OR WAIVER OF, THE
2 FOREGOING OBJECTIONS, Respondent states that by definition, if an email
3 account search criteria is a "keyword," its results do in fact identify emails that
4 match that keyword search. Respondent further states that in its experience,
5 keyword searches generally identify more emails than may actually be responsive
6 to a records request; for example, a search using an email address or partial email
7 address as the "keyword" in responding to a request for emails to or from such
8 address is likely to identify emails in which that email address or partial email
9 address appears but were not in fact to or from such address. In addition, use of a
10 complete email address as opposed to part of one for the "keyword" apparently can
11 lead to some differences in search results. There likely are other technical reasons
12 of which Respondent is unaware and on which it is not qualified to speak.

13
14
15
16
17 **INTERROGATORY NO. 28:**

18 Identify any and all of YOUR employees who routinely delete emails after
19 responding to them, maintaining them only in the "sent" folder of their account/s.

20
21 **RESPONSE TO INTERROGATORY NO. 28:**

22 None.

23
24 **INTERROGATORY NO. 29:**

25 Identify any and all of YOUR employees who routinely delete emails after they're
26 sent, maintaining them only in the "inbox" of their account/s.
27
28

1 **RESPONSE TO INTERROGATORY NO. 29:**

2 None.

3
4 **INTERROGATORY NO. 30:**

5 Describe the method YOU used to select the 1,418 EML files YOU produced to
6 Petitioner on December 31, 2018 in response to his January 24, 2017 CPRA
7 request.
8

9 **RESPONSE TO INTERROGATORY NO. 30:**

10 OBJECTION: This interrogatory assumes a fact not in evidence, to wit, that the
11 subject production was in response to the referenced request or only to that request.
12
13 SUBJECT TO, AND WITHOUT PREJUDICE TO OR WAIVER OF, THE
14 FOREGOING OBJECTIONS, Respondent states that it performed a search of 2016
15 and 2017 emails still in its possession in electronic form using the keywords
16 "lacity," "lacity.org," "lapd," "lapd.city.org," and "lapd.online." All results were
17 provided in December 2018 without specific examination for exact responsiveness,
18 e.g., some resulting records may have included those keywords even if not part of
19 an exchange between Respondent and the city, though if such were noticed they
20 were not included in what was provided to Petitioner, and some clear duplicates
21 were excluded from what was sent to Petitioner while other duplicates may have
22 been included.
23
24
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1 **INTERROGATORY NO. 31:**

2 Describe any and all means YOU used to ensure the 1,418 EML files included all
3 emails YOU produced in hard copy in May 2017.
4

5 **RESPONSE TO INTERROGATORY NO. 31:**

6 OBJECTION: The interrogatory assumes facts contrary to the evidence, to wit, that
7 any effort to so "ensure" was required.
8

9 SUBJECT TO, AND WITHOUT PREJUDICE TO OR WAIVER OF, THE
10 FOREGOING OBJECTIONS, Respondent states that no special such effort was
11 made; all responsive results from the search described in response to Interrogatory
12 No. 30 were provided, and if any emails provided to Petitioner for review in hard
13 copy were not included in the December 2018 production of emails in electronic
14 format, they likely no longer exist in electronic form. To the extent more were
15 produced in December 2018 than previously, it likely is because the prior provision
16 of records to Petitioner was not complete at that time, and/or because some of the
17 records provided in hard copy previously no longer exist in that form.
18
19
20

21 **INTERROGATORY NO. 32:**

22 Explain why YOU failed to include in YOUR December 2018 production
23 electronic copies of the emails produced only in hard copy in May 2017. (At the
24 December 21, 2018 meet and confer YOU agreed to provide in native electronic
25 format, and unredacted, all emails that YOU had previously redacted and provided
26
27
28

1 to Petitioner in hard copy in May 2017, in response to Petitioner's January 24, 2017
2 CPRA request).

3
4 **RESPONSE TO INTERROGATORY NO. 32:**

5 OBJECTION: The interrogatory assumes facts not in evidence, i.e., that no
6 electronic copy of an email previously provided in hard copy was provided in
7 December 2018, and that the subject production was in response to the referenced
8 request or only to that request.

9
10 SUBJECT TO, AND WITHOUT PREJUDICE TO OR WAIVER OF, THE
11 FOREGOING OBJECTIONS, see response to Interrogatory No. 31, above.

12
13 **INTERROGATORY NO. 33:**

14 Regarding YOUR attorney Jeff Brigg's statement that there were duplicate files in
15 YOUR December 31, 2018 production responsive to Petitioner's January 24, 2017
16 CPRA request because "the separate searches often yield the same results,"
17 describe any and all searches which caused you to produce two identical copies of
18 email dated August 16, 2016 at 11:14 p.m. from abraham@historiccore.bid to
19 blair@historiccore.bid with subject line "Re: Morning shift update 8-31-16," when
20 this email is not responsive to the January 24, 2017 request.

21
22
23
24 **RESPONSE TO INTERROGATORY NO. 33:**

25 OBJECTIONS: This interrogatory is compound and complex. It also assumes
26 facts not in evidence and untrue, to wit that Respondent's statements about
27 duplicate records produced were limited to the referenced or to any specific CPRA
28

1 request. Furthermore, it is vague as to time, inasmuch as Respondent sent several
2 responses to several of Petitioner's requests, multiple requests from Petitioner were
3 pending when the subject request was responded to, and some of the duplicates may
4 have been provided in response to subsequent requests.
5

6 SUBJECT TO, AND WITHOUT PREJUDICE TO OR WAIVER OF, THE
7 FOREGOING OBJECTIONS, Respondent states that the subject email appears
8 three times in Respondent's repository of potentially responsive records, so at least
9 one duplicate apparently was noticed and excluded from what was produced, and
10 the subject email does contain a reference to "lapd" in its body, which means it
11 would have been identified in a keyword search seeking emails responsive to one or
12 more of Petitioner's CPRA requests. The presence of duplicate emails in
13 Respondent's repository of potentially responsive emails is simply a fact, one
14 reason for which could be the forwarding of emails from closed email accounts to
15 Ms. Besten's account, and the other reasons being technical that Respondent is
16 unaware of and not qualified to explain, but Respondent understands that it is not
17 an unusual occurrence. Furthermore, Respondent sent several responses to several
18 of Petitioner's requests, multiple requests from Petitioner were pending when the
19 subject request was responded to, and some of the duplicates may have been
20 provided in response to subsequent requests.
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1 **INTERROGATORY NO. 34:**

2 Regarding YOUR attorney Jeff Brigg's statement that there were duplicate files in
3
4 YOUR December 31, 2018 production responsive to Petitioner's January 24, 2017
5 CPRA request because "the separate searches often yield the same results,"
6 describe any and all searches which caused you to produce four identical copies of
7
8 email dated November 1, 2016 at 6:15 p.m. from abraham@historiccore.bid to
9 blair@historiccore.bid with subject line "Re: Fwd: Construction flyer," which is not
10 responsive to the January 24, 2017 request.
11

12 **RESPONSE TO INTERROGATORY NO. 34:**

13 OBJECTIONS: This interrogatory is compound and complex. It also assumes
14 facts not in evidence and untrue, to wit that Respondent's statements about
15
16 duplicate records produced were limited to the referenced or to any specific CPRA
17 request, and that the subject record is not responsive to the subject request.
18
19 Furthermore, it is vague as to time, inasmuch as Respondent sent several responses
20 to several of Petitioner's requests, multiple requests from Petitioner were pending
21 when the subject request was responded to, and some of the duplicates may have
22 been provided in response to subsequent requests.
23

24 SUBJECT TO, AND WITHOUT PREJUDICE TO OR WAIVER OF, THE
25 FOREGOING OBJECTIONS, Respondent states that the subject email appears
26 several times in Respondent's repository of potentially responsive records, so at
27
28 least one or more duplicates was noticed and excluded from what was produced,

1 and the subject email does include an LAPD email, which means it would have
2 been identified in a keyword search seeking emails responsive to one or more of
3
4 Petitioner's CPRA request. The presence of duplicate emails in Respondent's
5 repository of potentially responsive emails is simply a fact, one reason for which
6 could be the forwarding of emails from closed email accounts to Ms. Besten's
7
8 account, and the other reasons being technical that Respondent is unaware of and
9 not qualified to explain, but Respondent understands that it is not an unusual
10 occurrence. Furthermore, Respondent sent several responses to several of
11
12 Petitioner's requests, multiple requests from Petitioner were pending when the
13 subject request was responded to, and some of the duplicates may have been
14 provided in response to subsequent requests.
15

16 **INTERROGATORY NO. 35:**

17 Regarding YOUR attorney Jeff Brigg's statement that there were duplicate files in
18
19 YOUR December 31, 2018 production responsive to Petitioner's January 24, 2017
20 CPRA request because "the separate searches often yield the same results,"
21 describe any and all searches which caused you to produce six identical copies of
22 email dated April 11, 2016 at 6:37 p.m. from noah@historiccore.bid to
23
24 38683@lapd.lacity.org with subject line "Re: April 20th Business Breakfast &
25 Marketing Committee Meeting."
26
27
28

1 **RESPONSE TO INTERROGATORY NO. 35:**

2 OBJECTIONS: This interrogatory is compound and complex. It also assumes
3 facts not in evidence and untrue, to wit that Respondent's statements about
4 duplicate records produced were limited to the referenced or any specific CPRA
5 request. Furthermore, Respondent sent several responses to several of Petitioner's
6 requests, multiple requests from Petitioner were pending when the subject request
7 was responded to, and some of the duplicates may have been provided in response
8 to subsequent requests.
9

10
11
12 SUBJECT TO, AND WITHOUT PREJUDICE TO OR WAIVER OF, THE
13 FOREGOING OBJECTIONS, Respondent states that the subject email would have
14 been identified by more than one keyword search seeking emails responsive to the
15 referenced CPRA request (e.g., a search for both "lapd" and "lacity"), and
16 furthermore may have been identified by searches conducted in response to other
17 CPRA requests of Petitioner. Furthermore, Respondent sent several responses to
18 several of Petitioner's requests, multiple requests from Petitioner were pending
19 when the subject request was responded to, and some of the duplicates may have
20 been provided in response to subsequent requests. In addition, because Respondent
21 supplied responsive emails to Petitioner in trenches, some searches may have been
22 duplicated for the sake of ensuring a complete response.
23
24
25
26
27
28

1 Dated: February 12, 2019

JEFFREY C. BRIGGS
BRIGGS LAW OFFICE

2
3 By:


Jeffrey C. Briggs
Attorney for Respondent Historic Core
Business Improvement District Property
Owners Association, Inc.

CORPORATE VERIFICATION

I, Blair Beston, state that I am the Executive Director of Historic Core Business Improvement District Property Owners Association, Inc., which is the Respondent in the within action, and I am authorized to make this verification on its behalf.

I have read the foregoing RESPONDENT'S RESPONSES TO PETITIONER'S SPECIAL INTERROGATORIES, SET ONE I know the contents thereof, and am informed and believe that the matters therein stated are true and upon that ground allege them to be true.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration is executed at Los Angeles, CA,, on February __, 2019.

A handwritten signature in dark ink, appearing to read 'Blair Beston', is written over a horizontal line.

Blair Beston

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RESPONDENT'S RESPONSES TO PETITIONER'S SPECIAL
INTERROGATORIES, SET ONE

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

ADRIAN RISKIN,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Case No. BS174718
	)	
HISTORIC CORE BUSINESS	)	
IMPROVEMENT DISTRICT PROPERTY	)	
OWNERS ASSOCIATION,	)	
	)	
Respondent.	)	
_____	)	

DEPOSITION OF BLAIR BESTEN

THURSDAY, FEBRUARY 21, 2019

Reported by: Shirley Q. Casilan
CSR No. 12361

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

ADRIAN RISKIN,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Case No. BS174718
	)	
HISTORIC CORE BUSINESS	)	
IMPROVEMENT DISTRICT PROPERTY	)	
OWNERS ASSOCIATION,	)	
	)	
Respondent.	)	
_____	)	

DEPOSITION OF BLAIR BESTEN, taken on behalf of
the Petitioner, commencing from 11:32 a.m. to 1:30 p.m.,
Thursday, February 21, 2019, at Law Offices of Colleen
Flynn, 3435 Wilshire Boulevard, Suite 2910, Los Angeles,
California, before Shirley Q. Casilan, CSR No. 12361.

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APPEARANCES OF COUNSEL:

FOR PETITIONER:

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I N D E X

WITNESS: BLAIR BESTEN

EXAMINATION BY:	PAGE
MS. FLYNN	5
MR. BRIGGS	95

E X H I B I T S

NUMBER	DESCRIPTION	PAGE
Exhibit 1	Email to Ellen Yuan	88

QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER:

Page	Line
69	5
85	6

INFORMATION REQUESTED:

(None)

1 A Okay.

2 Q In response to Interrogatory No. 24, you do say,
3 "It would be an undue and oppressive burden to do a new
4 search."

5 Can you explain why it would be an undue and
6 oppressive burden --

7 MR. BRIGGS: Objection. Calls --

8 BY MS. FLYNN:

9 Q -- to search your emails?

10 MR. BRIGGS: -- for legal conclusion. Objection.
11 She didn't verify objection.

12 I'm going to instruct you not to answer.

13 (Whereupon the witness was instructed not to
14 answer.)

15 BY MS. FLYNN:

16 Q Would it be difficult for you to do a new search
17 of send or receive with a date range in your email system?

18 A I don't know.

19 Q You don't know if it would be difficult?

20 A No. I don't know if it would be difficult.

21 Q Okay.

22 Moving on to Interrogatory No. 25 --

23 A Oh.

24 MR. BRIGGS: You're fine.

25 ///

1 BY MS. FLYNN:

2 Q -- it says, near the bottom, "The search and
3 completion dates" -- this is in response to Interrogatory
4 No. 25, three lines from the bottom.

5 MR. BRIGGS: I'm sorry. I'm in the wrong one. I
6 thought you said 27.

7 On page 17?

8 MS. FLYNN: Yes.

9 MR. BRIGGS: Okay.

10 BY MS. FLYNN:

11 Q It says: "Search completion dates correspond
12 roughly to the dates on which records responsive to a
13 subject request or portion thereof were provided to
14 petitioner."

15 So I just want to confirm that this is correct,
16 because it sounded like you-all had a lot of transmission
17 problems. And so, are you -- are you even aware of when
18 documents are provided from your counsel to --

19 A No.

20 Q -- petitioner?

21 Could you actually go over the transmission
22 problems that you have between each other that you
23 understand?

24 THE WITNESS: I only understand that I was able
25 to pull things onto a flash drive, provide it to you -- I

1 don't remember how I got it to you, but -- and then it
2 was -- you were unable to open it, the contents.

3 MR. BRIGGS: She's referring to her counsel.

4 THE WITNESS: Yeah. Thank you.

5 MR. BRIGGS: And then other problems -- that was
6 one. I'm sorry. I'm not trying to answer --

7 THE WITNESS: That's --

8 BY MS. FLYNN:

9 Q That you're aware of?

10 A That's one that I'm aware of, but -- and then I
11 don't recall exactly if we had -- how many time- -- how
12 many issues we had using some sort of ultimately a shared
13 file, shared drive of some kind. I -- those are details
14 that I just don't remember.

15 Q So would it be correct to say that you initially
16 tried to give your counsel the responsive records via
17 flash drive, but that did not work?

18 A I guess not. Yeah.

19 Q Is your understanding that --

20 A It's my understanding --

21 Q -- that did not work?

22 A -- that it did not work.

23 Q Okay.

24 And then after that, please explain all the ways
25 that you have subsequently transferred files to your

1 counsel.

2 A Honestly, I don't remember exactly how --
3 ultimately how we successfully did it or how many attempts
4 we made to do it through other shared file options, but we
5 ultimately -- I got them to him. He was a -- he told me
6 that he received it.

7 Q Okay.

8 And were you following your counsel's
9 instructions on how to transfer the files to him?

10 A Yes. Each time, yes.

11 Q And you recall doing it at least through a
12 program called ShareFile?

13 A I don't recall what the title of the program was.

14 Q Do you know if it was more than one program that
15 was used or just that one?

16 A I don't remember.

17 Q Moving on to Interrogatory No. 6.

18 MR. BRIGGS: 6?

19 MS. FLYNN: 26. Sorry. On page 18.

20 BY MS. FLYNN:

21 Q Is it correct that you're saying that you don't
22 do as much BID business with the city via email so that
23 you don't have to produce those emails to petitioner?

24 MR. BRIGGS: Objection. The response to the
25 interrogatory speaks for itself.

1 MR. BRIGGS: "Anything to do at all" is vague.

2 But I can tell you that I did the search --

3 MS. FLYNN: Okay.

4 MR. BRIGGS: -- if that helps. I'm not trying
5 to...

6 MS. FLYNN: And then -- and you did the search of
7 all of the documents that she had previously --

8 MR. BRIGGS: Correct.

9 MS. FLYNN: -- provided to you?

10 MR. BRIGGS: That's correct.

11 BY MS. FLYNN:

12 Q Could you describe your repository of potentially
13 responsive records?

14 MR. BRIGGS: That's my wording. You can say I
15 don't know.

16 THE WITNESS: Potentially responsive? What does
17 that mean?

18 MR. BRIGGS: That's mine.

19 BY MS. FLYNN:

20 Q This is in your interrogatory responses.

21 MR. BRIGGS: It's my response.

22 MS. FLYNN: Okay.

23 MR. BRIGGS: And it's the emails that she
24 previously provided that are on my system. That's the
25 repository that is being referenced.

1 MS. FLYNN: Can I ask you how you maintain them?
2 Like in --
3 MR. BRIGGS: They're on my computer.
4 MS. FLYNN: Okay. Like, as files in a folder or
5 in --
6 MR. BRIGGS: Multiple folders.
7 MS. FLYNN: -- a computer system? I mean, like,
8 a program? Is it in a program or is it just files on your
9 computer? Like, how do they live?
10 MR. BRIGGS: They live in my computer, and I
11 assume they can't live there without some kind of program.
12 But to tell you -- I couldn't tell you much more than
13 that. I access them through an email system, but then I
14 can't read them. I have to go through a different program
15 in order to actually do anything with them.
16 MS. FLYNN: Okay. Would you mind explaining it
17 to me so I don't have to try to --
18 MR. BRIGGS: But --
19 MS. FLYNN: -- get this information from you
20 another way?
21 MR. BRIGGS: Explaining what to you?
22 MS. FLYNN: Just, like, how you do that, how that
23 works.
24 MR. BRIGGS: It's changed over time because the
25 nature of the system. Originally, I could read them in

1 EML format. Subsequently, I have to go through them one
2 at a time on Mozilla Thunderbird. That's the form in
3 which they're currently -- they currently appear.

4 MS. FLYNN: Okay.

5 MR. BRIGGS: It's through an -- through an
6 Outlook email system that then has to access Mozilla
7 Thunderbird in order to read them. And whether that's
8 technically accurate, I can't tell you. I'm just telling
9 you my perception.

10 I'm sorry. I didn't mean to -- did you hear me
11 okay?

12 THE REPORTER: Yes.

13 MR. BRIGGS: Okay. Thank you. I apologize.

14 BY MS. FLYNN:

15 Q So, then, the production of, like, duplicate
16 files, et cetera, would be a result of, for the record,
17 Mr. Briggs' search for responsive records, not
18 Ms. Besten's?

19 A No.

20 MR. BRIGGS: Not necessarily.

21 MS. FLYNN: Could one of you just explain that?

22 MR. BRIGGS: I can explain it.

23 MS. FLYNN: Okay.

24 MR. BRIGGS: If I do -- I'll explain in the
25 abstract first. If I go in -- you give me a search term

1 right now, I go into my computer, my regular Outlook
2 system email and I do a search, I will come up with
3 duplicates. Exact same files. So there -- for -- why, I
4 can't tell you, but I will. So that's one thing. So I
5 believe that some of the duplication existed in the emails
6 that were provided to me.

7 MS. FLYNN: Uh-huh.

8 MR. BRIGGS: There are other reasons that we've
9 explained that duplicates could occur. And similarly,
10 because of the many efforts to transfer the files, I would
11 have different but the same resources on my computer of
12 those files, and that could cause duplication.

13 MS. FLYNN: Okay.

14 MR. BRIGGS: So when you get duplicates in --
15 since the time of this litigation, well, no, even prior,
16 when there were duplicates provided, it's a combination of
17 factors, including the transfer to me of the files for
18 review for responsiveness and for exemptions, and because
19 sometimes the duplicate -- duplicates just appear and --
20 because you get it from multiple sources, multiple lists,
21 put it that way.

22 MS. FLYNN: And when you say "multiple lists,"
23 that means multiple transferences of emails from
24 Ms. Besten --

25 MR. BRIGGS: Exact same --

1 MS. FLYNN: -- to you.

2 MR. BRIGGS: No. I mean, the original sent to
3 her may -- she may have gotten the exact same email
4 multiple times.

5 MS. FLYNN: Okay.

6 BY MS. FLYNN:

7 Q So following up on that, since Mr. Briggs has
8 been hired to assist the BID in handling responses to PRA
9 requests, what is your role and what is his role?

10 A With regards to?

11 Q Responding to PRA requests to the BID.

12 A He lets me know what the request is, and then I
13 would do a search based on what I'm told the request is
14 for.

15 Q And then you provide the documents to him for
16 review.

17 Is that correct?

18 A Yes.

19 Q Does Mr. Briggs do anything else for the BID
20 besides assist with PRA requests?

21 A Yes.

22 Q What else does he do for the BID?

23 A He's also --

24 MR. BRIGGS: And you can answer in general.

25 THE WITNESS: He's counsel for the BID, For

1 PRA requests now that Mr. Briggs has been hired to assist
2 the BID?

3 A The only difference might be that you receive the
4 request and I don't, and then I respond once he lets me
5 know that I have the request.

6 MR. BRIGGS: And then I provide the documents.

7 THE WITNESS: And then you provide the documents.

8 BY MS. FLYNN:

9 Q And do you have an agreement of how quickly he
10 needs to pass on a PRA request to you once he has received
11 it?

12 A I assume something that fits within the law.

13 MR. BRIGGS: Do you have an agreement?

14 THE WITNESS: No.

15 BY MS. FLYNN:

16 Q Okay.

17 Describe all steps, if any, that you have taken
18 after this lawsuit was filed to ensure that the BID has
19 produced all responsive records.

20 Do you want that read back to you again?

21 A Yeah. Thank you.

22 (Record read by the reporter.)

23 THE WITNESS: I'd defer to our counsel.

24 BY MS. FLYNN:

25 Q Besides deferring to counsel, have you actively

1 taken any steps?

2 A Not in terms of this lawsuit, no.

3 Q Does the BID have a Mailchimp account?

4 MR. BRIGGS: I think that's one word.

5 MS. FLYNN: Yes. M-a-i-l-c-h-i-m-p.

6 THE WITNESS: Yes.

7 BY MS. FLYNN:

8 Q Do you know the BID email addresses -- address or
9 the addresses that the messages come from?

10 A I don't remember. It was set up a long time ago.

11 Q What is the BID's Mailchimp account used for?

12 A Newsletters.

13 Q Anything else?

14 A Not really, no.

15 Q Who uses it to send out messages?

16 A Paula.

17 Q Does the BID ever email the city through its
18 Mailchimp account?

19 A Not intentionally. If someone had signed up for
20 a Mailchimp, it's open to the public to sign up for it.

21 Q You would not intentionally send your newsletters
22 to individuals at the city?

23 A If they had signed up for the newsletter. If
24 they had put their name in to sign up for it, then they
25 would receive emails.

1 MR. BRIGGS: You mean announcements?

2 THE WITNESS: Newsletters.

3 MR. BRIGGS: Newsletters. Sorry.

4 BY MS. FLYNN:

5 Q Did you search the BID's Mailchimp account for
6 emails responsive to PRA requests that are the subject of
7 this litigation?

8 A No.

9 Q Would you be willing to do so?

10 MR. BRIGGS: You don't have to answer that.

11 I don't know. We'll look at it. I'll have to
12 let you know.

13 MS. FLYNN: Okay. We can follow up.

14 MR. BRIGGS: Yeah. You can follow up.

15 BY MS. FLYNN:

16 Q If there are the potential for responsive records
17 to be there, would not searching it have been intentional
18 or an oversight, or something else?

19 MR. BRIGGS: Objection. That question is vague,
20 ambiguous, argumentative, and assumes facts not in
21 evidence.

22 BY MS. FLYNN:

23 Q Did you intentionally not search your Mailchimp
24 account in response to petitioner's PRA request that are
25 the subject of this litigation?

1 A No.

2 Q So would it be correct to say that it would have
3 been unintentional that you haven't searched your
4 Mailchimp account for emails that are --

5 MR. BRIGGS: Objection.

6 BY MS. FLYNN:

7 Q -- potentially responsive to this litigation?

8 MR. BRIGGS: Assumes facts not in evidence.

9 BY MS. FLYNN:

10 Q Okay. Let's start over.

11 Is it correct you did not search your Mailchimp
12 account for emails potentially responsive to petitioner's
13 request that are the subject of this litigation?

14 MR. BRIGGS: Is that correct?

15 THE WITNESS: Yes.

16 BY MS. FLYNN:

17 Q And why not?

18 A Why didn't I check Mailchimp? Because it's
19 publicly offered and all emails are publicly produced, and
20 it wouldn't even occur to me that that would be
21 correspondence. It's an announcement. It's not a
22 reciprocation of information. It wouldn't even occur to
23 me.

24 Q So the emails that the BID sends out, potentially
25 including individuals at the city, you -- is it correct

1 that you do not consider those to be emails?

2 MR. BRIGGS: By way of Mailchimp?

3 THE WITNESS: By way of Mailchimp?

4 BY MS. FLYNN:

5 Q Yes.

6 A They're forms of communicating information out
7 that are offered to the public. So anyone could receive
8 them. All you have to do is sign up. So they would
9 receive the duplicative email that everyone receives
10 that's on that list.

11 Q Okay.

12 A So it's public already.

13 Q But emails from the BID --

14 A Anyone could sign up to receive the same email
15 that all of the email addresses receive.

16 Q Okay.

17 So just to be clear, what goes out from the BID
18 through Mailchimp are emails.

19 Is that correct?

20 MR. BRIGGS: Objection. Calls for legal
21 conclusion. Calls for an expert opinion.

22 BY MS. FLYNN:

23 Q You can still answer the question.

24 MR. BRIGGS: And lacks foundation.

25 THE WITNESS: I consider them not -- I never

1 considered them emails in the sense of correspondence. I
2 considered them newsletters. It's a different form of
3 email. There's no intention of receiving response or --
4 so I don't ...

5 BY MS. FLYNN:

6 Q Are you denying that it's emails that get sent
7 out through Mailchimp?

8 MR. BRIGGS: Objection. It's argumentative.
9 Question is asked and answered.

10 And I'm instructing you not to answer the
11 question.

12 (Whereupon the witness was instructed not to
13 answer.)

14 MS. FLYNN: On what basis?

15 MR. BRIGGS: Because it's -- it calls for a legal
16 conclusion. She's already asked and answered it and it's
17 argumentative. And I'm telling her not to answer. She's
18 already given you an answer to the question.

19 MS. FLYNN: She hasn't given us her answer.

20 MR. BRIGGS: Yes, she has.

21 MS. FLYNN: And what is it?

22 MR. BRIGGS: She's told you she doesn't even
23 consider them to be email, but whether they are or not is
24 a technical answer. She's not qualified. It has no
25 foundation. And I'm not going to allow you --

1 BY MS. FLYNN:

2 Q Are you aware that you're supposed to respond to
3 PRA requests within ten days?

4 A Yes.

5 MR. BRIGGS: Objection. It's vague as to
6 "respond."

7 BY MS. FLYNN:

8 Q As the executive director of the BID, do you
9 consider it ultimately your responsibility to make sure
10 the BID is complying with the statutory obligations under
11 the PRA?

12 A Yes.

13 Q Do you have a records retention policy?

14 A No.

15 Q You know what, actually, this is my last question
16 on this issue. I'm just going to go back real quickly.

17 If you could take a look at this. If we can make
18 this an exhibit.

19 Is this -- if you look -- it says: "From
20 Historic Core BID."

21 A Uh-huh.

22 Q "Date: June 6th, 2017. Subject: June."

23 MR. BRIGGS: I'm sorry. Okay. I see. Where it
24 says "forwarded message"?

25 MS. FLYNN: Uh-huh.

1 MR. BRIGGS: Okay.

2 BY MS. FLYNN:

3 Q June, and then Historic Core downtown L.A. to

4 ellen.yuan, Y-u-a-n, at lacity.org.

5 A Uh-huh.

6 Q Does this look like an email from the BID to

7 somebody with an lacity.org email address?

8 A Does this look like an email from --

9 Q Strike that.

10 Is this an email --

11 MR. BRIGGS: Can you clarify what you mean

12 "this"? Do you mean --

13 MS. FLYNN: The forwarded message.

14 MR. BRIGGS: The forwarded message.

15 MS. FLYNN: The forwarded message.

16 THE WITNESS: Okay. Is this an email from Paula

17 to Ellen? It appears to be, yes.

18 BY MS. FLYNN:

19 Q Thank you.

20 MS. FLYNN: Let's make that an exhibit.

21 THE REPORTER: 1?

22 MS. FLYNN: Sure.

23 (Exhibit 1 was marked for identification

24 and is attached hereto.)

25 MR. BRIGGS: This is our copy.

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REPORTER'S CERTIFICATE

I, SHIRLEY Q. CASILAN, Certified Shorthand
Reporter licensed in the States of California and
Washington, do hereby certify:

That the foregoing proceedings were taken before
me at the time and place therein set forth, at which time
the witness was duly sworn by me;

That the testimony of the witness, the questions
propounded, and all objections and statements made at the
time of the examination were recorded stenographically by
me and were thereafter transcribed;

That the foregoing is a true and correct
transcript of my shorthand notes thereof.

I further certify that I am not a relative or
employee of any attorney of the parties, nor financially
interested in the action or the outcome thereof.

IN WITNESS WHEREOF, I have subscribed my name
this 12th day of March, 2019.

SHIRLEY Q. CASILAN, CSR
CA CSR No. 12361
WA CSR No. 3443
Expiration Date: 4/2019

Riskin v. HCBID PRA // follow-up from 1/8/19 court appearance & proposal

From: Colleen Flynn (cflynnlaw@yahoo.com)
To: jbriggs@jbriggslaw.com
Bcc: adrian@chez-risk.in
Date: Wednesday, January 9, 2019, 3:29 PM PST

Dear Jeff,

I'm writing to follow-up on the status conference we had yesterday afternoon 1/8/19 with Judge Chalfant.

As a reminder, our next court date is March 5, 2019 at 1:30 p.m.

After court we briefly discussed rescheduling Ms. Besten's deposition, currently set for Jan 24th. Please be in touch when you get back to town so we can pick a new date.

Regarding the discovery I served at court, responses are due Feb 7th. Please let me know if you have any questions.

At the hearing, after I outlined the outstanding issues, you told the judge that your client is working on confirming its searches have been complete. If that is true, I would like to propose a resolution of the case.

In an effort to ensure my client has all responsive records he is entitled to and to save your client time and money litigating further, Mr. Riskin proposes the following:

1) Re: Jan 2017 CPRA Request:

Respondent does a new search for all emails between 1/1/2016 and 1/24/2017 in staff accounts using lacity.org as a key word and produces all results.

Alternatively, Respondent could produce the actual redacted emails in eml format as you agreed to do at the meet and confer on 12/21/18. Either of these is acceptable to my client, but whichever you choose, it will also be necessary to allow him access to the printed redacted emails so that he can check that the production was adequate and complete (I would be happy to be present).

2) Re: Both Feb 2017 CPRA Requests:

Respondent does a new search for each request and provides the file names for all responsive files;

3) Re: June 2017 CPRA Request:

EXHIBIT 6

Flynn 1/9/19 Email

Mr. Riskin is willing to forgo the majority of this request. Here Respondent would only have to do a search for emails with the City of Los Angeles and LAPD (subpart 2) and provide the file names for all responsive files (Respondent would not need to redo the searches for sub-parts 1, 3, and 4). Petitioner proposes Dec 1, 2017 as the end of the date-range (the original date-range was 1/25/2017 "through whenever you comply with this request");

4) Re: October 2017 CPRA Request:

Respondent does a new search for this request and provides the file names for all responsive files.

5) Mr. Riskin will compare the files names you provide with the files Respondent has already provided. If there are any that Respondent has not produced I will let you know so that you can pull them, review and produce with any necessary redactions for exempt material. Petitioner reserves the right to challenge any exemptions. Though I doubt this will be a problem since Respondent has not claimed any exemptions since you got involved.

6) Mr. Riskin and I are present when Respondent conducts the searches above, are able to observe the search fields, and are immediately provided a hard copy and electronic copy of the file names.

Please let me know if this resolution is amenable to your client.

I look forward to hearing back from you and I hope you made your plane.

Best,

Colleen

colleen flynn | *attorney at law*
3435 wilshire blvd., suite 2910 | los angeles, ca 90010
213.252.9444 tel. | 213.252.0091 fax.

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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**
10

11 CORY SPENCER, an individual;
12 DIANA MILENA REED, an
13 individual; and COASTAL
14 PROTECTION RANGERS, INC., a
California non-profit public benefit
corporation,

15
16 Plaintiffs,

17 v.

18 LUNADA BAY BOYS; THE
19 INDIVIDUAL MEMBERS OF THE
20 LUNADA BAY BOYS, including but
21 not limited to SANG LEE, BRANT
22 BLAKEMAN, ALAN JOHNSTON
23 AKA JALIAN JOHNSTON,
24 MICHAEL RAE PAPAYANS,
25 ANGELO FERRARA, FRANK
26 FERRARA, CHARLIE FERRARA,
and N. F.; CITY OF PALOS VERDES
ESTATES; CHIEF OF POLICE JEFF
KEPLEY, in his representative
capacity; and DOES 1-10,

27 Defendants.
28

CASE NO. 2:16-cv-02129-SJO (RAOx)

**ORDER TO RELEASE N.F.'S
CELLULAR TELEPHONE FOR
EXTRACTION**

Hon. Rozella A. Oliver

Complaint Filed: March 29, 2016
Trial Date: December 12, 2017

1 FOR GOOD CAUSE IT IS ORDERED THAT:

2 N.F.'s cell phone shall be released by the Palos Verde Estates Police
3 Department to Meridian Discovery, care of Arman Gungor (hereafter "Meridian"),
4 located at 611 Wilshire Boulevard, Suite 315, Los Angeles, CA 90017.

5 Within 2 business days of execution of this Stipulation, N.F. will retain
6 Meridian, located at 611 Wilshire Boulevard, Suite 315, Los Angeles, CA 90017, to
7 conduct a forensic investigation of the data on the phone. N.F. agrees to cooperate
8 as necessary with Meridian with respect to providing passwords and any other
9 necessary information. N.F. will pay the cost of the forensic examination and
10 subsequent production.

11 Meridian is to forensically extract all available data from N.F.'s cellular.
12 telephone. The information extracted should include date and time stamps, to the
13 extent available, as well as any other forensic information that can be attributed to
14 each item.

15 Once preservation is complete, using parameters and instructions agreed upon
16 by the parties and provided to Meridian by Mr. Fields, Meridian will perform search
17 and filtering to locate potentially responsive documents, which will be provided to
18 Mr. Fields for review, for the following categories of information:

- 19 - Call History (including voice mail)
- 20 - Text Message History
- 21 - Email history
- 22 - Photos & Videos
- 23 - Contacts & Calendar
- 24 - Maps
- 25 - Notes
- 26 - Geolocation (GPS/Cell Tower) data
- 27 - Web history.

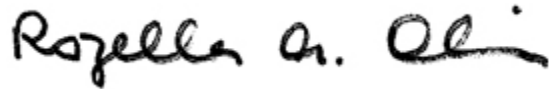
28 Upon receipt of the information from Meridian, Mr. Fields and N.F. shall

1 have 5 days to review the information, assert any appropriate objections and/or any
2 appropriate "CONFIDENTIAL" designation under the Protective Order, and
3 produce non-objectionable data or documents that are responsive to the Request for
4 Production of Documents.

5 To the extent that Plaintiffs have any disagreement with N.F.'s stated
6 objections of his production, which the parties cannot resolve, the parties agree to
7 submit the dispute to the Court for resolution, including an in camera inspection if
8 requested by Plaintiffs.

9 Upon completion, Meridian shall return the phone to the Palos Verdes Estates
10 Police Department.

11
12
13 Dated: October 12, 2017



HON. ROZELLA A. OLIVER
United States Magistrate Judge

5/29/2018

City of Los Angeles Mail - Fwd: CPRA request - historiccore.bid - June in the Historic Core of DTLA



Ruben Viramontes <ruben.viramontes@lacity.org>

Fwd: CPRA request - historiccore.bid - June in the Historic Core of DTLA

1 message

Ellen Yuan <ellen.yuan@lacity.org>

Sat, May 26, 2018 at 9:43 AM

To: Ruben Viramontes <ruben.viramontes@lacity.org>

----- Forwarded message -----

From: **Historic Core BID** <paola@historiccore.bid>

Date: Tue, Jun 6, 2017 at 8:01 AM

Subject: June in the Historic Core of DTLA

To: Ellen <ellen.yuan@lacity.org>

You are receiving this email because you are awesome and love the Historic Core of Downtown Los Angeles. Click for full content ----->

[Click to make full content visible.](#)

what's new in
Downtown LA's
Historic Core
news from the Historic Core Business Improvement District
June 2017

Facebook, Twitter, Instagram, Link icons

Have you purchased your tickets for the Last Remaining

Seats yet? Don't wait too long, tickets are quickly selling out

https://mail.google.com/mail/u/0/?ui=2&ik=41d6642404&jsver=ixDVk5HntT0.en.&cbl=gmail_fe_180509.12_p4&view=pt&search=inbox&th=1639d560a7d4fb7e&sir

EXHIBIT 8

HCBID MailChimp Email

and this years lineup brings beloved Hollywood classics to our beautiful Historic Core theaters.

If you're looking to win a pair of tickets to one of the screenings, make sure you are following the Historic Core BID on Instagram (@historiccore) and keep an eye out for the upcoming photo contest starting on June 5th.

For information, lineup, and ticket purchases, please click [here](#). We hope you show your support for this beloved staple event hosted by the Los Angeles Conservancy.



Photo via @lawinefest

Soak up summer vibes and embrace the world of wine and craft beer at the LAWineFest, now moving to Downtown LA to celebrate its 12th anniversary. Grab your friends and head to ROW DTLA to explore distinctive wines and artisan beers from around the world. Sip a California chardonnay, an old-world Greek wine, or an ice cold West Coast craft beer. For those wanting to dive deeper into limited-production wineries, get an All-Access ticket to taste these emerging gems. The outdoor festival hosts music, artisan exhibitors and gourmet food trucks curated by Smorgasburg LA. Your good time is a good deed too! LA's Sunshine Kids Foundation

NEW BUSINESSES



Blu Jam Cafe is now open in the Spring Arcade and is poised to become a neighborhood favorite, providing delicious non-traditional breakfast and lunch.

// 542 S Broadway

DATES & MEETINGS



- + Downtown Art Walk
Thu June 8th / 12pm-9pm
- + Last Remaining Seats
Hosted LA Conservancy
June 3rd - 24th
- + LAWine Fest
June 17th & 18th
Row DTLA

Keep in the know of art, culture, civic events, and more with our local DTLA Events Calendar.

is this year's annual Charitable Beneficiary.

Go to www.lawinefest.com for more info and to buy discounted tickets. Admission includes commemorative glass, extensive wine and beer tasting, Icelandic Glacial water, La Brea Bakery bread and Pasquini coffee to keep you going. As a valued DTLA community member, save 30% off entire purchase with special code DTLA17. Keep an eye out for 2 ticket giveaways on the Historic Core's Instagram page!



CLEANING

May 2017 Report

- 6702 trash bags collected
- 154,146 lbs of trash
- 380 graffiti tags cleaned
- 2568 bulk items removed
- 94 hours of pressure washing and power steaming.



Learn more about our service provider and community partner Chrysalis at changelives.org.



California's Market Match incentive program allows low income shoppers to make healthy food choices by making fresh, locally grown produce at farmers markets affordable. In 2016, Market Match was offered at 260 sites by 37 community based organizations throughout the state. Through the Market Match program, the Historic Downtown Farmers Market and Hunger Action L.A. has donated \$5,000 to the program to benefit local, low income residents. Under the Market Match program, those who receive federal and state nutrition benefits such as CalFresh, WIC, SSI (Supplemental Security Income) or SSDI (Social Security Disability) benefits are eligible to receive vouchers that double their buying power (up to \$10 every Sunday). Low

OUTREACH

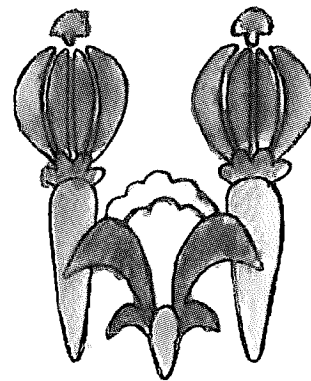
May 2017 Report

- 31 individuals engaged
- 20 individuals screened
- 26 individuals offered services
- 26 individuals services accepted
- 21 individuals services initiated

income recipients of Social Security retirement benefits also qualify.

Historic Downtown LA through Market Match has matched over \$15,000 worth of fruit and vegetable purchases from California farmers benefitting over 700 low income residents in the downtown area in 2016.

Shoppers who wish to participate can sign up directly at the Historic Downtown LA Farmers Market held on Sundays, 9 a.m. to 2 p.m., 5th street between Spring and Broadway, Los Angeles, CA 90013. Bring CalFresh (EBT) card, SSI award letter or WIC folder. Historic Downtown LA Farmers Market is operated by Southland Farmers Market Association and sponsored by the Historic Core BID. The Market Match program is sponsored by Hunger Action LA.

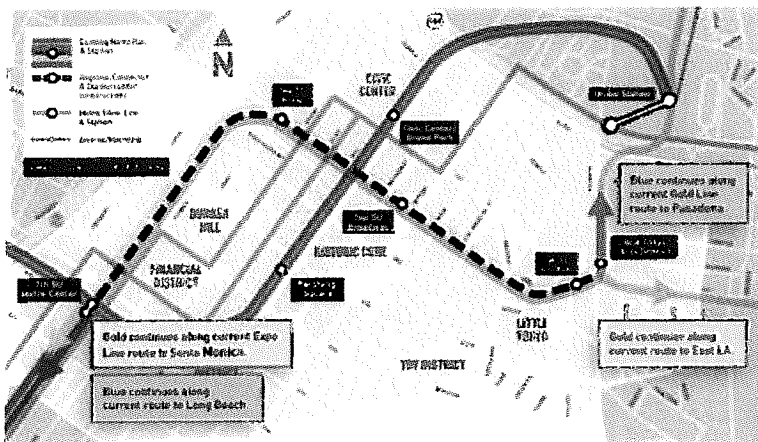


HISTORIC DOWNTOWN FARMERS MARKET

REMINDER! The Historic Core's very own farmers market happens every Sunday from 9am–2pm on 5th Street between Broadway and Spring.

Our Farmers Market is trying to extend hours but we need your help, please email us at info@historiccore.bid with your support!

Visit our website for more information!



The Metro Regional Connector Project extends from the Metro Gold Line Little Tokyo/Arts District Station to the 7th Street/Metro Center Station in downtown Los Angeles, allowing passengers to transfer to Blue, Expo, Red and Purple Lines, bypassing Union Station. The 1.9-mile alignment will serve Little Tokyo, the Arts District, Civic Center, The Historic Core, Broadway, Grand Av, Bunker Hill, Flower St and the Financial District.

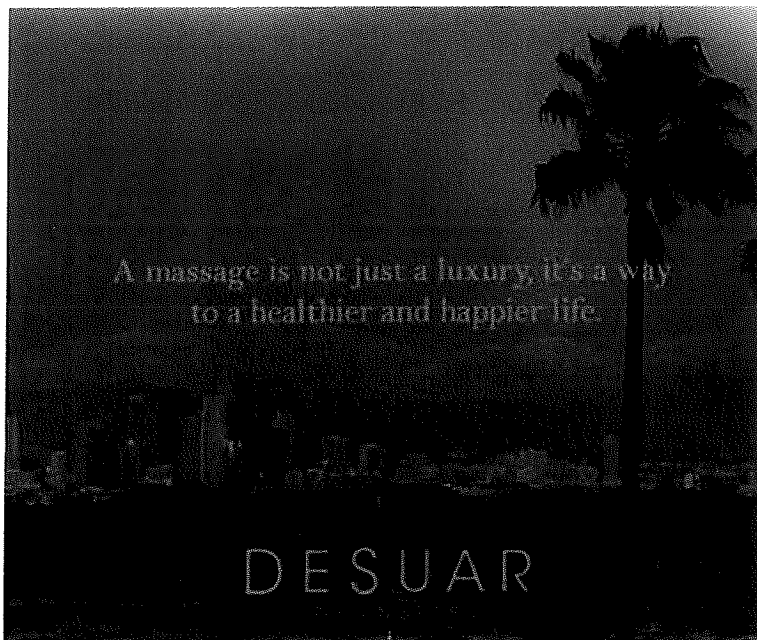
The Regional Connector will improve access to both local and regional destinations by providing continuous thru service between these lines and providing connectors to other rail lines via the 7th St/Metro Center Station.

Regional Connector Constructors (RCC) will be implementing a full closure of 6th St. between Figueroa and Hope St., and



For more photos like this, follow us @historiccore

For more information and updates on the project and road closures, please click [here](#) to be directed to Metro's informational page.



Father's Day is a time to celebrate dad with gifts that fit his particular lifestyle. Help dad de-stress by taking a relaxing time-out for himself at our spa. We have created two custom dad's day packages to celebrate him.

Super Daddy Package – 85min – \$120 (reg \$145) This treatment includes an Express Radiance Facial that cleans and purifies the skin, and a 50-minute Deep Tissue Massage to release tension from aching and sore muscles.

www.spadesuar.com.

Los Angeles, CA 90013

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Riskin v. HCBID // Following Up re: Mail Chimp

From: Colleen Flynn (cflynnlaw@yahoo.com)

To: jbriggs@jbriggslaw.com

Bcc: adrian@chez-risk.in

Date: Thursday, February 21, 2019, 3:36 PM PST

Dear Jeff,

I'm writing to follow up regarding Ms. Beston's deposition today.

I anticipate that you and Ms. Besten will not try to maintain the position you took at the depo that emails the HCBID sends via MailChimp are not really emails.

Please see the attached emails, sent from the HCBID to lacity.org email addresses, and responsive to Mr. Riskin's PRA requests that are the subject of this litigation. (The header for one is pasted below for your convenience).

It appeared from Ms. Besten's testimony that her failure to search for responsive emails through the HCBID's MailChimp account was unintentional.

Please let me know if your client will voluntarily search the HCBID's MailChimp account for responsive records or if we have to bring it to Judge Chalfant for resolution.

Best,

Colleen

From: Historic Core BID <paola@historiccore.bid>
Date: Tue, Jun 6, 2017 at 8:01 AM
Subject: June in the Historic Core of DTLA
To: Ellen <ellen.yuan@lacity.org>

colleen flynn | *attorney at law*
3435 wilshire blvd., suite 2910 | los angeles, ca 90010
213.252.9444 tel. | 213.252.0091 fax.



00130298.PDF
705.1kB



00130299.PDF
863.4kB

Riskin v. HC BID // follow up from 5/3/19 trial setting conf

From: Colleen Flynn (cflynnlaw@yahoo.com)

To: jbriggs@jbriggslaw.com

Bcc: adrian@chez-risk.in

Date: Tuesday, March 5, 2019, 4:24 PM PST

Hi Jeff,

Just following up from our pre and post court discussions today:

1) Briefing Schedule

I propose a 30-30-15 briefing schedule. Since the trial date is Tues, Sept 3, that would mean opening brief due July 8, opposition due Aug 7, and reply due Aug 22. Work for you?

2) HCBID's response to 1/9 settlement offer

When I told the court your client had turned down the settlement offer you said that was not accurate, there might be more we can work out. After court you told me there are 1-2 items on the settlement offer that you may be able to provide. Can you clarify?

2) Mailchimp Emails

Regarding HCBID's failure to produce emails it sent via MailChimp, you said you were "looking into it in good faith" and would get back to me. The fact that Respondent had sent responsive emails to the City via MailChimp but has not yet produced them came up at Ms. Beston's depo on Feb. 21st and I emailed you about it later that day. I would appreciate a response this week.

In case there is any doubt that emails sent via MailChimp are indeed emails, see <https://mailchimp.com/> which describes the company as an email marketing service, advertising, "Get the word out with email."

Looking forward to hearing back from you.

Best,

Colleen

colleen flynn | *attorney at law*

3435 wilshire blvd., suite 2910 | los angeles, ca 90010

213.252.9444 tel. | 213.252.0091 fax.

EXHIBIT 9

Flynn 3/5/19 Email

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 3435 Wilshire Blvd., Suite 2910, Los Angeles, CA 90010.

On the date set out below, I served the foregoing document described as **Petitioner's Brief in Support of Petition for Order Compelling Disclosure** on the following interested parties via E-Mail:

JEFFREY BRIGGS
Briggs Law
6464 Sunset Blvd., #715
Hollywood, CA 90028
jbriggs@jbriggslaw.com

Executed on July 8, 2019 at Los Angeles, California.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the above is true and correct.



Colleen Flynn